

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.173 and 455B.197, the Environmental Protection Commission hereby adopts amendments to Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 62, “Effluent and Pretreatment Standards: Other Effluent Limits or Prohibitions,” Chapter 63, “Monitoring, Analytical, and Reporting Requirements,” and Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

Pursuant to Iowa Code section 455B.173(3), the Commission is required to establish, modify, or repeal rules relating to the location, construction, operation, and maintenance of disposal systems. Iowa Code section 455B.173(3) specifies the conditions under which the Director shall issue, revoke, suspend, modify, or deny permits for the operation, installation, construction, addition to, or modification of any disposal system, or for the discharge of any pollutant. These amendments fulfill the Commission’s and the Department’s requirements pursuant to Iowa Code section 455B.173(3).

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as **ARC 7152B**. Three public hearings were held throughout the state with notice of the hearings sent to various individuals, organizations, and associations, and to statewide news network organizations. Comments were received from 170 persons and organizations. A responsiveness summary addressing the comments may be obtained from the Department of Natural Resources. At its October 14, 2008, meeting, the Administrative Rules Review Committee (ARRC) requested that the Department perform an Informal Regulatory Analysis of the Notice. The Informal Regulatory Analysis was presented to the ARRC at its December 10, 2008, meeting.

The amendments have been modified from those published under Notice based on the comments received during the public comment period and additional input received from stakeholders about the Informal Regulatory Analysis. The modifications to the final amendments add or remove minor phrases for clarification, change the definition of and requirements for bypasses, reduce the monitoring requirements, and remove the language on substantial compliance. The following summary describes the amendments and the changes that have been made since publication of the Notice. The summary does not detail all of the amendments, but it highlights the amendments that will have the greatest impact on wastewater treatment facilities and the State of Iowa and the amendments that have been changed from the Notice.

1. Chapter 60

The amendments to Chapter 60 include the addition of several definitions, the addition of newer permit application forms, and clarification of the language concerning permit applications and permit amendments. Several definitions are added to Chapter 60. The terms are from the Code of Federal Regulations, Iowa Code section 455B.171, the Wastewater Design Standards, other Administrative Code chapters, or as suggested by NPDES permit writers. The new definitions are being added to Chapter 60 because the terms are used in one or more of 567—Chapters 60 to 69.

Five changes have been made to the definitions for Chapter 60 as published under Notice. First, the definition of “bypass” has been changed, and the definition of “sanitary sewer overflows” has been removed based on stakeholder comments. The definition of “bypass” provides clarification of what is considered to be a bypass, but is not more stringent than the Code of Federal Regulations. Second, the definitions of “high quality resource waters” and “high quality waters” have been removed from Chapter 60; these terms are already defined in 567—Chapter 61. Third, the language “made with the consent of the permittee” has been incorporated in the definition for “minor permit amendment.” This language is from the Code of Federal Regulations and has been included to comply with federal regulations. Fourth, the language “or contribute to” has been removed from the definition of “pass through” at the request of stakeholders and in order to comply with the definition of “pass through” in

the Code of Federal Regulations. Fifth, a second sentence has been added to the definition of “private sewage disposal system” to conform to the recently adopted rules for 567—Chapter 69.

The newer permit application forms are added to Chapter 60 in order to make the list of permit application forms complete. The amendments clarify the application requirements for NPDES and operation permits by including a description of a complete permit application, when a permit application is due, the procedure for addressing incomplete applications, how to submit a permit amendment request, and how to request a variance from monitoring requirements in a permit.

Three changes have been made to the language concerning permit applications in the final amendments. For completeness, additional forms and form numbers have been added to the list of application forms proposed in the Notice. For clarification purposes, the phrase “in the case of existing discharges” has been added to the last sentence of subparagraph 60.4(2)“a”(2) regarding incomplete permit applications. At the suggestion of the commenters, the sentence “For a POTW, permission to submit an application at a later date may be granted by the director” has been added to subparagraph 60.4(2)“a”(1) regarding complete permit applications, as required by the Code of Federal Regulations. This sentence has also been added to the corresponding application language in 567—64.8(455B).

An additional minor change has been made to the language concerning permit amendments. At the request of the commenters, the language concerning the request to amend a compliance schedule will remain the same. The Department proposed in the Notice to require the submittal of such a request at least 60 days in advance, but the final amendments retain the current language that requires a request to amend a compliance schedule to be made at least 30 days in advance.

2. Chapter 62

The amendments to Chapter 62 include language on prohibited discharges, on the derivation of effluent limits in permits using Total Maximum Daily Load (TMDL) allocations, on the reuse of treated effluent, and on the calculation of the 30-day average percent removal of five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅). The language on prohibited discharges is taken from the Code of Federal Regulations, which lists pollutants that cannot be discharged to public or private domestic sewage treatment works. The amendment on the reuse of treated final effluent is taken from a Department policy document and clarifies the requirements for the reuse of treated effluent for irrigation of golf courses. The only change from the Notice in the amendments to Chapter 62 is the deletion of a phrase for clarification in subrule 62.10(1) pertaining to the reuse of treated effluent.

Chapter 62 currently states that effluent limitations in permits shall be determined using the calculated wasteload allocations. The language on the derivation of effluent limits does not include a reference to TMDLs. The Code of Federal Regulations requires states to implement TMDLs through NPDES permits for point-source discharges; thus, the amendments to Chapter 62 include language on using approved TMDLs to establish permit limits.

The amendments on the calculation of the 30-day average percent removal for secondary treatment clarify how to calculate the percent removal based on the monitoring adopted in Chapter 63. One of the adopted monitoring changes to Chapter 63 requires domestic treatment facilities to measure five-day Biochemical Oxygen Demand (BOD₅) in raw wastewater and CBOD₅ in effluent wastewater. BOD₅ is an appropriate measure of raw wastewater strength and is useful for the future design of wastewater treatment plants. CBOD₅ is an appropriate measure of effluent wastewater strength and is currently used in NPDES permits. The federal secondary treatment standards require that the 30-day average percent removal of either BOD₅ or CBOD₅ in wastewater be not less than 85 percent. Because the amendments to Chapter 63 require monitoring of both BOD₅ and CBOD₅, it is necessary to specify how the percent removal shall be calculated. The amendments add a description of the 85 percent removal calculation to the secondary effluent limits listed in Chapter 62.

3. Chapter 63

The amendments to Chapter 63 replace the language on bypasses and upsets, update monitoring requirements for all NPDES permits by adding new monitoring, and rescind the monitoring table for inorganic waste discharges (Table V) and incorporate the monitoring for inorganic waste discharges

into a rule-referenced document cited in rule 63.3(455B).

The language about bypasses has been changed from that in the Notice. The language in rule 63.6(455B) no longer includes references to sanitary sewer overflows, as the U.S. EPA has not yet modified the Code of Federal Regulations to specifically discuss sanitary sewer overflows. Based on stakeholder comments, several other minor changes have been made to the language about bypasses in the final rule. The language on anticipated bypasses has been modified to allow for notification ten days ahead of the anticipated bypass rather than two weeks. The unanticipated bypass or upset notification language no longer includes the statement that notification by voicemail is unacceptable. The language has also been changed to indicate that required additional monitoring, sampling, and analysis pertain only to a bypass or upset. The language about bypasses was also modified to require only the submission of additional information concerning steps taken to minimize the effect of a bypass, rather than any information on bypass.

The Department, after discussions with stakeholders and a thorough review of the federal regulations, has decided to adopt bypass requirements that provide more detail than the federal regulations regarding reporting, public notice, monitoring, and cleanup of bypasses. These requirements will not impose significant additional costs to regulated entities.

The adopted bypass requirements in the final rule concerning requests for anticipated bypasses provide more clarity than the federal regulations. The federal regulations require submittal of prior notice of an anticipated bypass, but do not describe what “prior notice” consists of. The adopted requirements for an anticipated bypass set out the information that should be included in a written request for an anticipated bypass. The requirements concerning the written request (“prior notice”) are necessary to clarify what a regulated entity must do in the case of an anticipated bypass. The anticipated costs of this change will include the operator time to prepare and submit the written request and the postage to mail the request to the Department. These costs are negligible, as anticipated bypasses occur only rarely.

The public notice requirements in the final rule for bypasses add detail not present in the federal requirements. The Department believes that the public and downstream users should be informed when a bypass has occurred. The adopted language in the final rule allows the Department to determine when public notice is necessary; thus, many small or precipitation-related bypasses will not require public notice. The anticipated costs of this change will include the operator time to prepare the notice and the cost of publishing the notice. The costs to regulated entities of this final rule cannot be quantified, as the occurrence of bypasses that could require public notice cannot be predicted with any certainty.

The requirements in the final rule that describe the required written reports for unanticipated bypasses comply with the section of the federal regulations that requires a written submission concerning the circumstances of noncompliance which may endanger human health or the environment. A different section of the Code of Federal Regulations requires a written submission only for bypasses which exceed any effluent limitation. The adopted rule requires a written submission for all bypasses, whether or not they exceed effluent limitations in the permit. Written reports are required for all bypasses in the final rule because either bypasses that occur in the collection system will not have any effluent limitations or it will be unknown whether there is an exceedance of an effluent limitation. In order for the Department to adequately address problems created by bypasses, it is important to have a detailed description of all bypasses that may pose a risk to human health or the environment, whether or not the bypass has exceeded an effluent limitation in the permit. The anticipated costs of this change will include the operator time to prepare and submit the written report with the required monthly operation reports. These costs will be negligible, as facilities already report bypasses on their monthly operation reports.

The bypass and upset requirements in the final rule on additional monitoring, sampling, or analysis of a bypass or upset require additional steps beyond the federal regulations. Additional monitoring, sampling, or analysis of a bypass or upset is necessary to determine the effect of the bypass or upset upon human health and the environment. Without sampling data, it is only possible to guess at the

effect of a bypass or upset. When the effects of a bypass could be detrimental to human health or the environment, additional disinfection and cleanup are warranted. The cleanup and disinfection requirements in the final rule will ensure that bypasses are dealt with appropriately. The anticipated costs of this change will include the sampling costs and the operator time to take and record samples of a bypass or upset and the disinfection costs and operator time to disinfect or clean up a bypass. The costs of this change to regulated entities cannot be quantified, as bypasses and upsets cannot be predicted with any certainty, and any sampling, disinfection, or cleanup that may be required will be different for different bypasses and upsets.

When additional monitoring, sampling, or analysis is required to determine the effects of a bypass or upset, such analyses must be submitted to the Department. The anticipated costs of this change will include the postage to mail the sample data to the Department. Regulated entities will incur little, if any, cost from the additional data submittal in the final rule.

The current monitoring requirements in Chapter 63 have not been updated in more than 20 years. The final amendments update the minimum monitoring requirements for organic waste dischargers by increasing some of the current requirements and by adding new parameters. The increase in the current monitoring allows for better operational control and compliance monitoring, thereby ensuring that all facilities will meet permit requirements and are properly operated. The new monitoring for Total Nitrogen (TN), Total Phosphorus (TP), and Total Kjeldahl Nitrogen (TKN) gives the facilities and the Department needed information on the nutrient levels coming from dischargers of organic wastes. Effluent limits for TN, TP, and TKN will not be included in permits at this time. The data from the new monitoring will assist the Department in the development of nutrient standards and TMDLs and will help ensure that appropriate limits are placed in TMDLs for point source dischargers.

The monitoring tables in the final amendments have been significantly changed from those in the Notice. The changes were made due to stakeholder comments and to reduce the impact of new monitoring requirements on small wastewater facilities. In Table I for Controlled Discharge Lagoons (CDLs), four changes were made. First, the requirement to monitor TN and TP has been removed for all CDLs. In conjunction with the removal of TN and TP monitoring, the TN and TP superscript has been moved to Table II for continuously discharging facilities. Second, all of the sample frequencies for CDLs have been changed to per drawdown rather than per week or per month in order to clarify when effluent sampling is required. Third, the sampling frequency for *E.coli* monitoring for the CDLs with a Population Equivalent (PE) greater than 100 has been changed from once every two weeks to twice per drawdown, so that *E.coli* sampling frequencies will be similar to the sampling frequencies for other parameters. Fourth, with the exception of one-cell CDLs, the monitoring frequencies for the parameters in the less than 100 PE category have been reduced to match the current rules. The monitoring for two- and three-cell CDLs with a PE of less than 100 does not increase. For one-cell lagoons with a PE of less than 100, a superscript has been added to indicate that the sampling frequencies for Total Suspended Solids (TSS) and Carbonated Biochemical Oxygen Demand (CBOD₅) will be twice per drawdown to allow for better operational control and compliance monitoring of one-cell lagoons as these lagoons do not meet the current wastewater design standards.

In the final amendments, the two tables that were proposed in the Notice for continuously discharging facilities (Tables II and III) have been combined into one table (Table II). The table in the final amendments is similar to the current Table II in Chapter 63. Six changes have been made to Tables II and III from the Notice. First, as noted above, the tables were combined. This combination is an effect of the next five changes, which resulted in identical monitoring for all types of continuously discharging facilities. Second, the TN and TP requirements were changed. TN and TP monitoring was removed for facilities with a PE of less than 1000. In addition, the TN, TP and TKN monitoring was reduced by half for the facilities with a PE of greater than 1000. The language in the new TN and TP superscript that was moved from Table I was also modified to discuss TN analysis and TN and TP reporting in more detail.

Third, a superscript was added to Table II that states ammonia nitrogen monitoring is required only for facilities with ammonia nitrogen limits. This superscript is the same as an existing superscript in

Table II of Chapter 63. Fourth, the monitoring frequencies for most of the parameters in the less than 100 and the 101 to 500 PE categories were reduced to the levels in the current Table II of Chapter 63. This change was made to reduce the impact of new monitoring requirements on small wastewater facilities. The frequency of the monitoring for ammonia nitrogen and *E.coli* for the less than 100 and the 101 to 500 PE categories was not reduced, due to the monthly ammonia limits and *E.coli* geometric mean required by 567—Chapter 61 (Water Quality Standards). Fifth, the monitoring frequencies for all of the parameters in the 501 to 1000 PE category, with the exceptions of TSS and *E.coli*, were reduced to the levels in the current Table II of Chapter 63. The monitoring frequency for TSS is higher than that in the current Table II in order to provide better operational control and compliance monitoring, and the *E.coli* monitoring frequency must comply with the Water Quality Standards. Sixth, the TSS monitoring for the facilities with a PE between 1000 and 15,000 has decreased from that in the Notice.

The changes to the monitoring tables in the final amendments result in less cost from the new monitoring for small communities and semipublic facilities (e.g., mobile home parks, campgrounds). The continuing costs to the small facilities are due to the *E.coli* and influent wastewater sampling requirements. These requirements have not been removed from the final amendments, as they are necessary to ensure that these facilities meet Water Quality Standards and comply with the Federal Code of Regulations.

The minimum monitoring table in Chapter 63 for inorganic waste dischargers does not include monitoring requirements for several types of industrial dischargers. Due to the complexity of inorganic wastes and the diversity in industrial discharges, the development of a single table to cover all inorganic waste discharges is impractical. Thus, the final amendments rescind Table V and incorporate the monitoring for inorganic waste discharges into the rule-referenced document, “Supporting Document for Permit Monitoring Frequency Determination,” which is cited in rule 63.3(455B). The new document quantifies the factors requiring additional monitoring in rule 567—63.3(455B) and sets out a procedure for the derivation of monitoring requirements. The final rule-referenced document describes how to determine the monitoring requirements for the large number of industrial discharges that are not covered by existing Table V.

At the suggestion of the commenters, rule 63.9(455B) has been modified from the Notice to include a phrase that specifies that the additional monitoring required to be included in the calculation and reporting of data shall be “performed at the compliance monitoring point and analyzed according to 40 CFR Part 136.” This phrase was added to clarify the proposed language.

4. Chapter 64

The amendments to Chapter 64 add two classes of facilities that are exempted from obtaining operation permits; clarify the language regarding the issuance and denial of operation and NPDES permits; clarify the public notice requirements for NPDES permits; and add language on public requests to amend, revoke and reissue, or terminate permits.

Chapter 64 currently includes nine types of facilities and discharges that are exempted from obtaining operation and NPDES permits. The amendments add exemptions for privately owned geothermal heat pumps that do not discharge to a navigable water and pretreatment systems discharging to another disposal system. The current language in Chapter 64 is not descriptive of when, how, and under what circumstances operation and NPDES permits may be drafted, issued, or denied. The amendments differentiate, specify the procedures, and specify the permit rationale requirements for each occurrence. The public notice requirements for NPDES permits are expanded in the final amendments to include language on the public notice of public hearings and the responses to comments.

The current rules allow for the amendment, revocation and reissuance, and termination of permits only under certain conditions. The amendments expand the existing language to incorporate the other conditions for permit changes from both existing practice and federal regulations and include language from the Code of Federal Regulations that allows interested persons to submit requests to the Department for the amendment, revocation and reissuance, and termination of permits. Previously,

only permittees were allowed to submit such requests. The final amendments allow interested persons to submit such requests for cause and allow the Director to act upon such requests by denying, amending, reissuing, or terminating permits.

Four changes have been made to Chapter 64 as published under Notice. First, the language on substantial compliance was removed from the final amendments. Permits currently may not be reissued if permittees have not substantially complied with permit conditions. The amendments proposed in the Notice clarified substantial compliance, because current rule language does not specify what constitutes substantial compliance with permit conditions. The final amendments to Chapter 64 do not include the language on substantial compliance proposed in the Notice because the Department is considering altering the language concerning permit reissuance. When a final decision is made on how to factor substantial compliance into the permit reissuance process, Chapter 64 will be revisited.

Second, language has been added to the operation permit exemption for private sewage disposal systems to reflect the newly adopted changes to 567—Chapter 69. Third, a phrase has been added to the language that sets forth the permit as a shield provision in the Notice. The language in the Notice stated that compliance with a permit is compliance with certain provisions of federal law, and the language was modified to include a statement that compliance with a permit is also compliance with certain provisions of state law. This change was based on stakeholder comments. Fourth, a phrase that had been proposed in two locations was removed in one location so there will not be duplicate rules.

Additional information on Iowa's Water Quality Standards and the Department's rules can be found on the Department's Web site at <http://www.iowadnr.gov/water/npdes/rulemaking.html>.

These amendments may have an impact upon small businesses.

These amendments are intended to implement Iowa Code sections 455B.173, 455B.197 and 455B.105(11).

These amendments shall become effective April 15, 2009.

The following amendments are adopted.

ITEM 1. Amend rule 567—60.1(455B,17A) as follows:

567—60.1(455B,17A) Scope of title. The department has jurisdiction over the surface water and groundwater of the state to prevent, abate and control water pollution; by establishing standards for water quality and for direct or indirect discharges of wastewater to waters of the state and by regulating potential sources of water pollution through a system of general rules or specific permits. The construction and operation of any wastewater disposal system and the discharge of any pollutant to a water of the state ~~requires~~ require a specific permit from the department, unless exempted by the department.

This chapter provides general definitions applicable in this title and rules of practice, including forms, applicable to the public in the department's administration of the subject matter of this title.

Chapter 61 contains the water quality standards of the state, including classification of surface waters. Chapter 62 contains the standards or methods for establishing standards relevant to the discharge of pollutants to waters of the state. Chapter 63 identifies monitoring, analytical and reporting requirements pertaining to permits for the operation of wastewater disposal systems. Chapter 64 contains the standards and procedures for obtaining construction, operation and ~~discharge~~ NPDES permits for wastewater disposal systems other than those associated with animal feeding operations. Chapter 65 specifies minimum waste control requirements and permit requirements for animal feeding operations. Chapter 66 specifies restrictions on pesticide application to waters. Chapter 67 contains standards for the land application of sewage sludge. Chapter 68 contains standards and licensing requirements applicable to commercial septic tank cleaners. Chapter 69 specifies guidelines for private sewage disposal systems.

ITEM 2. Adopt the following new definitions in rule **567—60.2(455B)**:

"Application for a construction permit" means the engineering report, plans and specifications and other data deemed necessary by the department for the construction of a proposed wastewater

disposal system or part thereof.

“Application for an operation permit” means a written application for an operation or NPDES permit made on forms provided by the department.

“Approved pretreatment program” means a program administered by a publicly owned treatment works that meets the criteria established in 40 CFR Part 403 and which has been approved by the director.

“Average dry weather flow” or *“ADW”* means the daily average flow when the groundwater is at or near normal and runoff is not occurring.

“Average wet weather flow” or *“AWW”* means the daily average flow for the wettest 30 consecutive days for mechanical plants or for the wettest 180 consecutive days for controlled discharge lagoons.

“Bypass” means the diversion of waste streams from any portion of a treatment facility or collection system. A bypass does not include internal operational waste stream diversions that are part of the design of the treatment facility, maintenance diversions where redundancy is provided, diversions of wastewater from one point in a collection system to another point in a collection system, or wastewater backups into buildings that are caused in the building lateral or private sewer line.

“Combined sewer overflow” means the discharge from a combined sewer system at a point prior to the treatment works.

“Combined sewer system” means a wastewater collection system owned by a municipality which conveys sanitary wastewater (domestic, commercial, and industrial) and storm water through a single pipe system to the treatment plant.

“Construction permit” means a written approval from the director to construct a wastewater disposal system or part thereof in accordance with the plans and specifications approved by the department.

“Discharge of a pollutant” means any addition of any pollutant or combination of pollutants to navigable waters or waters of the state from any point source. “Discharge of a pollutant” includes additions of pollutants into navigable waters or waters of the state from surface runoff which is collected or channeled by human activity; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. “Discharge of a pollutant” does not include an addition of pollutants by any indirect discharger.

“Disposal system” means a system for disposing of sewage, industrial waste, or other wastes, or for the use or disposal of sewage sludge. “Disposal system” includes sewer systems, treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage sludge.

“Indirect discharger” means a non-domestic discharger introducing pollutants to a publicly owned treatment works.

“Industrial waste” means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade, or business, or from the development of any natural resource.

“Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts a POTW, its treatment process or operations, or its sludge processes, use or disposal; and

2. Is a cause of a violation of any requirement of a POTW NPDES permit including an increase in the magnitude or duration of a violation or the prevention of sewage sludge use or disposal.

“Major permit amendment” or *“major modification”* means a permit modification that is not a minor permit amendment as defined in this rule.

“Maximum wet weather flow” or *“MWW”* means the total maximum flow received during any 24-hour period when the groundwater is high and runoff is occurring.

“Minor permit amendment” or *“minor modification”* means a permit modification made with the consent of the permittee that occurs as a result of any of the following:

1. Correction of a typographical error;
2. Modification of the monitoring and reporting requirements in the permit to include more frequent monitoring or reporting;
3. Revision of an interim date in a compliance schedule, provided that the new date is not more than 120 days after the date specified in the permit and does not interfere with the attainment of the final compliance date;
4. Change in facility name or ownership;
5. Deletion of a point source outfall that does not result in the discharge of pollutants from other outfalls; or
6. Incorporation of an approved local pretreatment program.

“*New source*” means any building, structure, facility or installation from which there is or may be a discharge of pollutants to a navigable water, the construction of which commenced after the promulgation of standards of performance under Section 306 of the Act which are applicable to such source, provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located; the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph “1” but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source as defined pursuant to this rule has commenced if the owner or operator has:

- Begun, or caused to begin, as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment; or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in the operation of the new source within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

“*Operation permit*” means a written permit by the director authorizing the operation of a wastewater disposal system or part thereof or discharge source and, if applicable, the discharge of wastes from the disposal system or part thereof or discharge source to waters of the state. An NPDES permit will constitute the operation permit in cases where there is a discharge to a water of the United States and an NPDES permit is required by the Act.

“*Other waste*” means heat, garbage, municipal refuse, lime, sand, ashes, offal, oil, tar, chemicals, and all other wastes which are not sewage or industrial waste.

“*Pass through*” means a discharge which, alone or in conjunction with a discharge or discharges entering the treatment facility from other sources, exits a POTW or semipublic sewage disposal system in quantities or concentrations which cause a violation of any requirement of the treatment facility's NPDES permit including an increase in the magnitude or duration of a violation.

“*Permit rationale*” means a document that sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing a draft operation or NPDES permit.

“*Point source*” means any discernible, confined, and discrete conveyance, including but not

limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged. "Point source" does not include return flows from irrigated agriculture or agricultural storm water runoff.

"*Pollutant*" means sewage, industrial waste, or other waste.

"*Population equivalent*" means the calculated number of people who would contribute an equivalent amount of biochemical oxygen demand (BOD) per day as the system in question, assuming that each person contributes 0.167 pounds of five-day, 20 degrees Celsius, BOD per day.

"*Pretreatment*" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes, or by other means, except as prohibited in 40 CFR 403.6(d).

"*Pretreatment requirements*" means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

"*Pretreatment standard*" or "*national pretreatment standard*" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. "Pretreatment standard" includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

"*Private sewage disposal system*" means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on a continuing basis. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.

"*Semipublic sewage disposal system*" means a system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288).

"*Severe property damage*" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.

"*Sewage*" means the water-carried waste products from residences, public buildings, institutions, or other buildings, including the bodily discharges from human beings or animals together with such groundwater infiltration and surface water as may be present.

"*Sewage from vessels*" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under Section 312 of the Act.

"*Significant industrial user*" means an industrial user of a POTW that meets any one of the following conditions:

1. Discharges an average of 25,000 gallons per day or more of process wastewater excluding sanitary, noncontact cooling and boiler blowdown wastewater;
2. Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW;
3. Is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or
4. Is designated by the department as a significant industrial user on the basis that the contributing industry, either singly or in combination with other contributing industries, has a reasonable potential for adversely affecting the operation of or effluent quality from the POTW or for violating any pretreatment standards or requirements.

Upon a finding that an industrial user meeting the criteria in paragraph "1" or "2" of this definition has no reasonable potential for adversely affecting the operation of the POTW or for violating any

pretreatment standard or requirement, the department may, at any time on its own initiative or in response to a request received from an industrial user or POTW, determine that an industrial user is not a significant industrial user.

“*Water of the state*” means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

ITEM 3. Amend rule **567—60.2(455B)**, definitions of “CFR,” “Major,” “Navigable water,” and “Regional administrator,” as follows:

“*CFR*” or “*Code of Federal Regulations*” means the ~~Code of Federal Regulations as published by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402~~ federal administrative rules adopted by the United States in effect as of July 1, 2008. The amendment of the date contained in this definition shall constitute the amendment of all CFR references contained in 567—Chapters 60 to 69, Title IV, unless a date of adoption is set forth in a specific rule.

“*Major*,” ~~means for municipalities, means a facility having a discharge flow or an average wet weather design flow of 1.0 mgd million gallons per day (MGD) or greater. For industries it~~ “major” means a facility which is designated by EPA as being a major industry based on the EPA point rating system ~~which uses pounds of wastes discharged for each facility.~~

“*Navigable water*” means a water of the United States as defined in 40 CFR Part 122.2.

“*Regional administrator*” means the regional administrator of the United States Environmental Protection Agency, Region VII, ~~726 Minnesota Avenue~~ 901 N. 5th Street, Kansas City, Kansas 66101.

ITEM 4. Rescind the definitions of “Dry weather design flow,” “High quality resource waters,” “High quality waters,” “Major contributing industry” and “Standard methods” in rule **567—60.2(455B)**.

ITEM 5. Amend rule 567—60.3(455B,17A), introductory paragraph, as follows:

567—60.3(455B,17A) Forms. The following forms ~~are shall be used by the public~~ to apply for departmental approvals and to report on activities related to the wastewater programs of the department. Electronic forms may be obtained from the appropriate regional field office. All forms ~~Paper forms may be obtained from the Environmental Protection Division, Administrative Support Station, Iowa Department of Natural Resources, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0032~~ the Web site of the department or by contacting the appropriate regional field office. Properly completed application forms ~~should~~ and all attachments shall be submitted in accordance with the instructions, ~~to the Wastewater Permits Section, Environmental Protection Division.~~ Reporting forms ~~should~~ shall be submitted to the appropriate field office. ~~(See rule 567—1.4(455B))~~

ITEM 6. Amend subrule 60.3(2) as follows:

60.3(2) Operation and NPDES permit application forms.

a. Form 30 — public or private domestic ~~sewerage~~ sewer systems (municipal and semipublic facilities) 542-3220.

____ (1) Part A — basic information for all applicants.

____ (2) Part B — expanded effluent testing data.

____ (3) Part C — toxicity testing data.

____ (4) Part D — industrial user discharges and RCRA/CERCLA wastes.

____ (5) Part E — combined sewer systems.

____ (6) Part F — certification.

b. Form 31 — treatment agreement 542-3221.

c. Form 34 — open feedlots 542-~~3225~~ 4001.

d. Form 1 — general information for industrial, manufacturing or commercial systems 542-

1376. ~~(For storm water discharge EPA Form 3510-1, also referred to as EPA Form 1, may be used.)~~

~~e. Form 2 — facilities which do not discharge process wastewater—industrial, manufacturing or commercial systems 542-1377. (For storm water discharge EPA Form 3510-2E, also referred to as EPA Form 2E, may be used.)~~

~~f. Form 3 — facilities which discharge process wastewater existing sources—industrial, manufacturing, and commercial systems 542-1378. (For storm water discharge EPA Form 3510-2C, also referred to as EPA Form 2C, may be used.)~~

~~g. Form 4 — facilities which discharge process wastewater—new sources—industrial, manufacturing or commercial systems 542-1379. (For storm water discharge EPA Form 3510-2D, also referred to as EPA Form 2D, may be used.)~~

~~h. EPA Form 2F (EPA Form 3510-2F) — application for NPDES individual permit to discharge storm water discharge associated with industrial activity 542-1380.~~

~~i. Form 5 — Certification for Industrial Facilities 542-1380.~~

~~j. NPDES Permit Application Supplement 542-1383.~~

~~k. Notice of Intent for Coverage Under Storm Water NPDES General Permit No. 1 “Storm Water Discharge Associated with Industrial Activity” or General Permit No. 2 “Storm Water Discharge Associated with Industrial Activity for Construction Activities” or General Permit No. 3 “Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities” 542-1415.~~

~~j. L. Notice of Intent for Coverage Under NPDES General Permit No. 4 “Discharge from On-Site Wastewater Private Sewage Treatment and Disposal Systems.” 542-1541.~~

~~k. m. Notice of Intent for Coverage Under NPDES General Permit No. 5 “Discharge from Mining and Processing Facilities” 542-4006.~~

~~l. n. Notice of Discontinuation From Coverage Under General Permit No. 5 542-8038.~~

~~m. o. Information Required to Accompany Application for the Municipal Separate Storm Sewer System (MS4) Permit 542-8039.~~

~~p. NPDES Application Fee Invoice for Open Feedlots and Designated Confinement Feeding Operations 542-1240.~~

~~q. NPDES Application Fee Invoice 542-1251.~~

~~r. NPDES Application Fee Invoice for a New Discharger 542-1253.~~

~~s. Storm Water Discharge — NPDES General Permit #1 Notice of Discontinuation 542-8814.~~

~~t. Storm Water Discharge — NPDES General Permit #2 Notice of Discontinuation 542-8815.~~

~~u. Storm Water Discharge — NPDES General Permit #3 Notice of Discontinuation 542-8816.~~

~~v. Public Notice of Storm Water Discharge 542-8117.~~

ITEM 7. Adopt the following **new** paragraph **60.3(3)“j”**:

j. Other forms as provided by the department, including electronic forms.

ITEM 8. Adopt the following **new** paragraph **60.4(1)“e”**:

e. *Fees.* Required fees shall be submitted with all applications for a construction permit as noted in 567—64.16(455B).

ITEM 9. Amend subrule 60.4(2) as follows:

60.4(2) Operation ~~permits~~ and NPDES permit applications.

a. *General.* A person ~~desiring~~ **required** to obtain or renew a wastewater operation permit or an Iowa NPDES permit pursuant to ~~567—Chapter 64, or 567—Chapter 65, or 567—Chapter 69~~ must complete the appropriate application form as identified in subrule 60.3(2). ~~The application shall be reviewed when it is complete, and if approvable the department shall prepare and issue the permit or proposed permit, as applicable, and transmit it to the applicant. A permit or renewal will be denied when the applicant does not meet one or more requirements for issuance or renewal of such permit.~~

(1) Complete applications. A permit application is complete and approvable when all necessary questions on the application forms have been completed and the application is signed pursuant to 567—subrule 64.3(8), and when all applicable portions of the application, including the application

fee and required attachments, have been submitted. The director may require the submission of additional information deemed necessary to evaluate the application. The due date for a renewal application is 180 days prior to the expiration date of the current permit, as noted in 567—64.8(455B). For a POTW, permission to submit an application at a later date may be granted by the director. The due date for a new application is 180 days prior to the date the operation is scheduled to begin, unless a shorter period is approved by the director.

(2) Incomplete applications. Incomplete applications may be returned to the applicant for completion. Authorization to discharge will be suspended if a complete application is not submitted to the department before the expiration date of the current permit. In the case of new applications, no discharge will be allowed until an NPDES or operation permit is issued. In the case of existing discharges, if a permit application is incomplete or has not been submitted, the department shall notify the permittee of a violation of this rule and may proceed administratively on the violation or may request that the commission refer the matter to the attorney general for legal action.

(3) Other information. If a permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, the permittee shall promptly submit such facts or information.

b. Amendments. A permittee seeking an amendment to its operation permit shall make a written request in the form of a detailed letter to the department which shall include the nature of and the reasons supporting the requested amendment ~~and the reasons therefor~~. A variance or amendment to the terms and conditions of a general permit shall not be granted. If a variance or amendment to a general permit is desired, the applicant must apply for an individual permit following the procedures in 567—paragraph 64.3(4)“a.”

(1) Schedules of compliance. Requests to amend a permit schedule of compliance shall be made at least 30 days prior to the next scheduled compliance date which the permittee contends it is unable to meet. The request shall include any proposed changes in the existing schedule of compliance, and any supporting documentation for the time extension. An extension may be granted by the department for cause. Cause ~~includes~~ may include unusually adverse weather conditions, equipment shortages, labor strikes, federal grant regulation requirements, or any other extenuating circumstances beyond the control of the requesting party. Cause does not include economic hardship, profit reduction, or failure to proceed in a timely manner.

(2) No change.

(3) Monitoring requirements. ~~A~~ An amendment request for a change in the minimum monitoring requirements in an existing permit ~~shall include the proposed changes in monitoring requirements and documentation therefor is considered a variance request. A request for a variance shall include a letter and the Petition for Waiver or Variance form (542-1258). This form can be obtained from the NPDES section as noted in 60.3(455B).~~ The requesting permittee must provide monitoring results which are frequent enough to reflect variations in actual wastewater characteristics over a period of time and are consistent in results from sample to sample. The department will evaluate the request based upon whether or not less frequent sample results accurately reflect actual wastewater characteristics and whether operational control can be maintained.

Upon receipt of a request, the department may grant, modify, or deny the request. If the request is denied, the department may notify the permittee of any violation of its permit and may proceed administratively on the violation or may request that the commission refer the matter to the attorney general for legal action.

c. Fees. Required fees shall be submitted with all permit applications as noted in 567—64.16(455B).

ITEM 10. Amend subrules 62.1(6) and 62.1(7) as follows:

62.1(6) The discharge of wastewater into a publicly owned treatment works or a ~~privately owned domestic sewage treatment works~~ semipublic sewage disposal system in volumes or quantities in excess of those to which a ~~major contributing industry~~ significant industrial user is committed in the treatment agreement described in 567—subrule 64.3(5) or a local control mechanism in the case of a

POTW with a pretreatment program approved by the department is prohibited.

62.1(7) Wastes in such volumes or quantities as to exceed the design capacity of the treatment works, cause interference or pass through, or reduce the effluent quality below that specified in the operation permit of the treatment works are considered to be a waste which interferes with the operation or performance of a publicly owned treatment works or a ~~privately owned domestic sewage treatment works~~ semipublic sewage disposal system and are prohibited.

ITEM 11. Adopt the following **new** subrule 62.1(8):

62.1(8) Discharge of the following pollutants to a publicly owned treatment works, a semipublic sewage disposal system, or a private sewage disposal system is prohibited:

a. Pollutants which create a fire or explosion hazard including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21;

b. Solid or viscous substances in amounts that will cause obstruction to the flow in the treatment works resulting in interference;

c. Heat in amounts which will inhibit biological activity in the treatment works resulting in interference but, in no case, heat in such quantities that the temperature of the waste stream at the treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless specifically approved by the department;

d. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

e. Pollutants which result in the presence of toxic gases, vapors, or fumes within the treatment works in a quantity that could cause acute worker health and safety problems; and

f. Pollutants which will cause corrosive structural damage to the treatment works but, in no case, discharges with a pH lower than 5.0 standard units, unless the treatment works is specifically designed to accommodate such discharges, or wastes which would intermittently change the pH of the raw waste entering the treatment plant by more than 0.5 standard pH units or which would cause the pH of the raw waste entering the treatment plant to be less than 6.0 or greater than 9.0 standard units.

ITEM 12. Amend rule 567—62.3(455B), catchwords, as follows:

567—62.3(455B) Secondary treatment information: effluent standards for publicly owned treatment works and ~~privately owned domestic sewage treatment works~~ semipublic sewage disposal systems.

ITEM 13. Amend subrule 62.3(1), introductory paragraph, as follows:

62.3(1) General. The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of the pollutant measurements carbonaceous biochemical oxygen demand (CBOD₅), the five-day measure of the pollutant parameter carbonaceous biochemical oxygen demand; suspended solids (SS), the pollutant parameter total suspended solids; and pH, the measure of the relative acidity or alkalinity. The pollutant measurement carbonaceous biochemical oxygen demand is used in lieu of the pollutant measurement five-day biochemical oxygen demand (BOD₅), as noted in 40 CFR 133.102. All requirements for each pollutant measurement shall be achieved by publicly owned treatment works and ~~privately owned domestic sewage treatment works~~ semipublic sewage disposal systems except as provided for in subrules 62.3(2) and 62.3(3).

ITEM 14. Amend paragraph **62.3(1)“a”** as follows:

a. Carbonaceous biochemical oxygen demand (5 day) — CBOD₅.

(1) and (2) No change.

(3) The 30-day average percent removal shall not be less than 85 percent, and the percent removal shall be calculated by adding 5 units to the effluent CBOD₅ monitoring data and comparing that value to the influent BOD₅ monitoring data. Site-specific information on the relationship between BOD₅ and CBOD₅ shall be used in lieu of the 5-unit relationship if such information is available.

ITEM 15. Amend subrule 62.3(3), introductory paragraph, as follows:

62.3(3) *Treatment equivalent to secondary treatment.* This subrule describes the minimum level of effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment in terms of the pollutant measurements CBOD₅, SS and pH. The pollutant measurement CBOD₅ is used in lieu of the pollutant measurement BOD₅ as noted in 40 CFR 133.105. Treatment works shall be eligible at any time for consideration of effluent limitations described for treatment equivalent to secondary treatment if:

ITEM 16. Amend paragraph **62.3(3)“f”** as follows:

f. CBOD₅ limitations:

(1) and (2) No change.

(3) The 30-day average percent removal shall not be less than 65 percent, and the percent removal shall be calculated by adding 5 units to the effluent CBOD₅ monitoring data and comparing that value to the influent BOD₅ monitoring data. Site-specific information on the relationship between BOD₅ and CBOD₅ shall be used in lieu of the 5-unit relationship if such information is available.

ITEM 17. Amend subrule 62.6(3), introductory paragraph, as follows:

62.6(3) *Effluent limitations.* This subrule establishes effluent limitations on the discharge of pollutants from sources other than publicly owned treatment works and ~~privately owned domestic sewage treatment works~~ semipublic sewage disposal systems that are not subject to the federal effluent standards adopted by reference in 62.4(1) and 62.4(3) to ~~62.4(60)~~ 62.4(71).

ITEM 18. Amend subrule 62.6(4) as follows:

62.6(4) *Pretreatment requirements for incompatible wastes.* This subrule establishes pretreatment requirements for incompatible pollutants that apply to sources other than ~~those covered by 40 CFR §128.133, (i.e., sources other than existing “major contributing industries” as defined in 40 CFR §128.124)~~ significant industrial users as defined in 567—60.2(455B), and to sources that are new or existing ~~major contributing industries~~ significant industrial users for which there is no federal pretreatment standard (i.e., sources which do not fall within a point source category or, if they do fall within a point source category, sources for which the administrator has not yet promulgated a pretreatment standard).

a. For sources that are within a point source category adopted by reference in 62.4(455B) for which there are promulgated effluent limitation guidelines, but no promulgated pretreatment standards, the pretreatment standard for incompatible pollutants shall be the promulgated effluent limitation guideline. ~~Provided, that if the treatment works which receives the pollutants is committed in its operation permit to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant.~~

b. For sources that are not subject to paragraph “a,” ~~there shall be established~~ the department shall establish an effluent limitation that represents the best engineering professional judgment in the department of the degree of ~~for~~ effluent reduction that is consistent with the Act and Iowa Code chapter 455B.

~~c. In no case shall a discharge into a publicly owned treatment works or a privately owned domestic sewage treatment works by a source subject to this subrule intermittently change the pH of the raw waste reaching the treatment plant by more than 0.5 pH unit or cause the pH of the waste reaching the plant to be less than 6.0 or greater than 9.0.~~

ITEM 19. Amend rule 567—62.7(455B) as follows:

567—62.7(455B) *Effluent limitations less stringent than the effluent limitation guidelines.* An effluent limitation less stringent than the effluent limitation guideline (adopted by reference in 62.4(455B)) representing the degree of effluent reduction achievable by application of the best practicable control technology currently available may be allowed in an NPDES permit if the factors relating to the equipment or facilities involved, the process applied, or other such factors related to the

discharger are fundamentally different from the factors considered by the administrator in the establishment of the guidelines. An individual discharger or other interested person may submit evidence concerning such factors to the director. On the basis of such evidence or other available information and in accordance with 40 CFR 125.31, the director will make a written finding that such factors are or are not fundamentally different from the facility compared to those specified in the development document. Any such less stringent effluent limitations must, as a condition precedent, be approved by the administrator.

ITEM 20. Amend subrule 62.8(2) as follows:

62.8(2) Effluent limitations necessary to meet water quality standards. No effluent, alone or in combination with the effluent of other sources, shall cause a violation of any applicable water quality standard. When it is found that a discharge that would comply with applicable effluent standards in 62.3(455B), 62.4(455B) or 62.5(455B) or effluent limitations in 62.6(455B) would cause a violation of water quality standards, the discharge will be required to meet ~~whatever effluent limitations are necessary to achieve water quality standards, including the nondegradation policy of 567—subrule 61.2(2)~~ the water quality-based effluent limits (WQBELs) necessary to achieve the applicable water quality standards as established in 567—Chapter 61. Any such effluent limitation limit shall be determined using a statistically-based portion of derived from the calculated waste load allocation, as described in “Supporting Document for Iowa Water Quality Management Plans,” (Iowa Department of Water, Air and Waste Management, July 1976, Chapter IV Chapter IV, July 1976, as revised on June 16, 2004), or the waste load allocation as required by a total maximum daily load, whichever is more stringent. The translation of waste load allocations to WQBELs shall use Iowa permit derivation methods, as described in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on June 16, 2004. (Copy available upon request to the Department of Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319. Copy on file with the Iowa Administrative Rules Coordinator.)

ITEM 21. Amend subrule 62.8(3) as follows:

62.8(3) Pretreatment requirements more stringent than pretreatment standards or requirements. The department or the publicly owned treatment works may impose pretreatment requirements more stringent than the applicable pretreatment standard of 62.4(455B) or pretreatment requirements of 62.6(455B) if such more stringent requirements are necessary to prevent violations of water quality standards, ~~or the permit limitations of the treatment works interference, or pass through.~~

ITEM 22. Adopt the following **new** rule 567—62.10(455B):

567—62.10(455B) Effluent reuse. Treated final effluent may be reused in a manner noted in 62.10(1) or as specified in the NPDES permit.

62.10(1) Reuse for golf course irrigation. Treated final effluent may be reused for golf course irrigation if the conditions described in “a” and “b” are met.

a. The treated final effluent must meet one of the following conditions:

(1) A minimum total residual chlorine level of 0.5 mg/l must be maintained at a minimum of 15 minutes contact time of chlorine to wastewater prior to the irrigation of the golf course with treatment plant effluent; or

(2) Disinfected effluent shall be held in a retention pond with a detention time of at least 20 days prior to reuse as irrigation on a golf course. For this purpose, effluent may be disinfected using any common treatment technology, and either an existing pond or a pond constructed specifically for effluent retention may be used.

b. A golf course utilizing treated final effluent shall take all of the following actions:

(1) Clearly state on all scorecards that treated final effluent is used for irrigation of the golf course and oral contact with golf balls and tees should be avoided;

(2) Post signs that warn against consumption of water at all water hazards;

(3) Color code, label, or tag all piping and sprinklers associated with the distribution or

transmission of the treated final effluent to clearly warn against the consumptive use of the contents; and

(4) Restrict the access of the public to any area of the golf course where spraying is being conducted.

All four of the above conditions must be met.

62.10(2) Reserved.

ITEM 23. Amend subrule 63.1(4) as follows:

63.1(4) All laboratories conducting analyses required by this chapter must be certified in accordance with 567—Chapter 83 ~~except that routine,~~ Routine on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine ~~and~~ other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements such as flow and cell depth, and operational monitoring tests specified in 63.3(4) are excluded from this requirement. All instrumentation used for conducting any analyses required by this chapter must be properly calibrated according to the manufacturer's instructions.

ITEM 24. Amend subrule 63.2(3) as follows:

63.2(3) The permittee shall retain for a minimum of three years ~~any~~ all paper and electronic records of monitoring activities and results including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records. This retention includes but is not limited to monitoring and calibration records from pH meters, dissolved oxygen meters, total residual chlorine meters, flow meters, and temperature readings from any composite samplers. The period of retention shall be considered to be extended during the course of any unresolved litigation or when requested by the director or the regional administrator.

ITEM 25. Amend rule 567—63.3(455B) as follows:

567—63.3(455B) Minimum self-monitoring requirements in permits.

63.3(1) *Monitoring by organic waste dischargers.* The minimum self-monitoring requirements to be incorporated in operation permits for facilities discharging organic wastes shall be the appropriate requirements in Tables I, II, and IV. Additional monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, industrial contribution to the system, complexity of the treatment process, history of noncompliance or any other factor which requires strict operational control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008, located on the NPDES Web site.

63.3(2) *Monitoring by inorganic waste dischargers.* The ~~minimum~~ self-monitoring requirements to be incorporated in the operation permit for ~~an inorganic waste discharge facilities discharging inorganic wastes~~ shall be ~~the appropriate requirement in Table V. Additional monitoring may be specified in the operation permit based on~~ determined on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, complexity of the treatment process, history of noncompliance or any other factor which requires strict control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008, located on the NPDES Web site.

63.3(3) *Monitoring of industrial contributors to significant industrial users of publicly owned treatment works.* ~~All major contributing industries~~ Monitoring for significant industrial users as defined in 567—60.2(455B) ~~and industrial contributors that are subject to national pretreatment standards shall be monitored in accordance with the requirements in Tables I, II and V, shall be determined as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008, located on the NPDES Web site. provided that the Results of such monitoring shall be submitted to the department in accordance with the reporting requirements in the operation permit. The monitoring program of a publicly owned treatment works with a pretreatment program approved by the department may be used in lieu of the tables supporting document. The~~

~~results of such monitoring shall be submitted to the department in accordance with the reporting requirements in the operation permit.~~

63.3(4) Operational monitoring. The minimum operational monitoring to be incorporated in permits shall be the appropriate requirements in Table III. These requirements reflect minimum indicators that any adequately run system must monitor. The department recognizes that most well-run facilities will be monitored more closely by the operator as appropriate to the particular system. However, the results of ~~this monitoring~~ any monitoring beyond the requirements in Table III need not be reported to the department, but shall be maintained in accordance with 63.2(3). ~~Operational monitoring requirements may be modified or reduced at the discretion of the director when adequate justification is presented by the permittee that the reduced or modified requirements will not adversely impact the operation of the facility.~~ Additional operational monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, complexity of the treatment process, history of noncompliance or any other factor that requires strict control to meet the effluent limitations of the permit.

63.3(5) Modification of minimum monitoring requirements. Monitoring requirements may be modified or reduced at the discretion of the director when requested by the permittee. Adequate justification must be presented by the permittee that the reduced or modified requirements will accurately reflect actual wastewater characteristics and will not adversely impact the operation of the facility. Requests for modification or reduction of monitoring requirements in an existing permit are considered variance requests and must follow the procedures in 567—paragraph 60.4(2)“b.” All reductions or modifications of monitoring incorporated into an operation or NPDES permit by amendment or upon reissuance of the permit are only effective until the expiration date of that permit.

63.3(6) Impairment monitoring. If a wastewater treatment facility is located in the watershed of an impaired water body that is listed on Iowa’s most recent Section 303(d) list (as described in 40 CFR 130.7), additional monitoring for parameters that are contributing to the impairment may be included in the operation or NPDES permit on a case-by-case basis.

ITEM 26. Amend subrule 63.5(2) as follows:

63.5(2) Reports of the self-monitoring results shall be submitted to the appropriate regional field office of the department quarterly. The quarterly reports shall cover the periods January through March, April through June, July through September, and October through December. The quarterly report for each period shall be submitted by the tenth day of the month following the quarter being reported.

ITEM 27. Rescind rule 567—63.6(455B) and adopt the following **new** rule in lieu thereof:

567—63.6(455B) Bypasses and upsets.

63.6(1) Prohibition. Bypasses from any portion of a treatment facility or from a sanitary sewer collection system designed to carry only sewage are prohibited. The department may not assess a civil penalty against a permittee for a bypass if the permittee has complied with all of the following:

a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The permittee submitted the information required in 63.6(2), 63.6(3), and 63.6(5).

63.6(2) Request for anticipated bypass. Except for bypasses that occur as a result of mechanical failure or acts beyond the control of the owner or operator of a waste disposal system (unanticipated bypasses), the owner or operator shall obtain written permission from the department prior to any discharge of sewage or wastes from a waste disposal system not authorized by a discharge permit. The

director may approve an anticipated bypass after considering its adverse effects if the director determines that it will meet the conditions in 63.6(1).

a. The request for a bypass shall be submitted to the appropriate regional field office of the department at least ten days prior to the expected date of the event.

b. The request shall be submitted in writing and shall include all of the following:

- (1) The reason for the bypass;
- (2) The date and time the bypass will begin;
- (3) The expected duration of the bypass;
- (4) An estimate of the amount of untreated or partially treated sewage or wastewater that will be discharged;
- (5) The location of the bypass;
- (6) The name of any body of surface water that will be affected by the bypass; and
- (7) Any actions the owner or operator proposes to take to mitigate the effects of the bypass upon the receiving stream or other surface water.

63.6(3) *Notification of unanticipated bypass or upset and public notices.* In the event that a bypass or upset occurs without prior notice having been provided pursuant to 63.6(2) or as a result of mechanical failure or acts beyond the control of the owner or operator, the owner or operator of the treatment facility or collection system shall notify the department by telephone as soon as possible but not later than 12 hours after the onset or discovery.

a. Notification shall be made by contacting the appropriate field office during normal business hours (8 a.m. to 4:30 p.m.) or by calling the department at (515)281-8694 after normal business hours.

b. Notification shall include information on as many items listed in subparagraphs 63.6(3)“d”(1) through (6) as available information will allow.

c. When the department has been notified of an unanticipated bypass, the department shall determine if a public notice is necessary. If the department determines that public notification is necessary, the owner or operator of the treatment facility or the collection system shall prepare a public notice.

d. Bypasses shall be reported with the monthly operation report, as a separate attachment, that includes:

- (1) The reason for the bypass, including the amount and duration of any rainfall event that may have contributed to the bypass;
- (2) The date and time of onset or discovery of the bypass;
- (3) The duration of the bypass;
- (4) An estimate of the amount of untreated or partially treated sewage or wastewater that was discharged;
- (5) The location of the bypass; and
- (6) The name of any body of surface water that was affected by the bypass.

63.6(4) *Monitoring, disinfection, and cleanup.* The owner or operator of the treatment facility or collection system shall perform any additional monitoring, sampling, or analysis of the bypass or upset requested by the regional field office of the department and shall comply with the instructions of the department intended to minimize the effect of a bypass or upset on the receiving water of the state. The following requirements for disinfection and cleanup apply to all bypasses:

a. The department may require temporary disinfection depending on the volume and duration of the bypass, the classification of the stream affected by the bypass, and the time of year during which the bypass occurs; and

b. The department may require cleanup of any debris and waste materials deposited in the area affected by the bypass. In conjunction with the cleanup, the department may require lime application to the ground surface or disinfection of the area with chlorine solution.

63.6(5) *Reporting of subsequent findings and additional information requested by the department.* All subsequent findings and laboratory results concerning a bypass shall be submitted in writing to the appropriate regional field office of the department as soon as they become available. Any additional

information requested by the department concerning the steps taken to minimize the effects of a bypass shall be submitted within 30 days of the request.

63.6(6) Upset. An upset is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

a. An upset constitutes an affirmative defense to the assessment of a civil penalty for noncompliance with technology-based effluent limitations if the requirements of paragraph “b” of this subrule are met.

b. A permittee that wishes to establish an affirmative defense of upset shall demonstrate, through properly signed operation logs or other relevant evidence, that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time of upset being properly operated;
- (3) The permittee submitted notice of upset in accordance with 63.6(3); and
- (4) The permittee completed any remedial measures required by the department, including monitoring, sampling, or analysis of the upset requested by the department and any instructions from the department calculated to minimize the effect of the upset on the receiving water of the state.

c. In any enforcement action proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

ITEM 28. Amend rule 567—63.7(455B) as follows:

567—63.7(455B) Submission of records of operation. ~~Records~~ Except as provided in subrules 63.3(4) and 63.5(1), records of operation shall be submitted to the appropriate regional field office of the department within 15 days following the close of the reporting period specified in 63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the operation permit. The permittee shall report all instances of noncompliance not reported under 63.12(455B) at the time monitoring reports are submitted. If a permittee becomes aware that it failed to submit any relevant facts in any report to the director, the permittee shall promptly submit such facts or information.

ITEM 29. Amend rule 567—63.8(455B) as follows:

567—63.8(455B) Frequency of submitting records of operation. Except as provided in ~~subrule 63.4(2)~~ subrules 63.3(4) and 63.5(1), records of operation required by these rules shall be submitted at monthly intervals. The department may vary the interval at which records of operation shall be submitted in certain cases. Variation from the monthly interval shall be made only under such conditions as the department may prescribe in writing to the person concerned.

ITEM 30. Amend rule 567—63.9(455B) as follows:

567—63.9(455B) Content of records of operation. Records of operation shall include the results of all monitoring specified in or authorized by this chapter and incorporated in the operation permit. ~~Monitoring performed but not specified in the operation permit shall be recorded and maintained in accordance with 63.2(455B).~~ The results of any monitoring not specified in the operation permit performed at the compliance monitoring point and analyzed according to 40 CFR Part 136 shall be included in the calculation and reporting of any data submitted in accordance with this chapter and the operation permit.

ITEM 31. Amend rule 567—63.11(455B) as follows:

567—63.11(455B) Certification and signatory requirements in the submission of records of operation. All records of operation as required by these rules shall include certification which attests that all information contained therein is representative and accurate. Each record of operation shall

contain the signature of a duly authorized representative of the corporation, partnership or sole proprietorship, municipality, or public facility which has proprietorship of the wastewater treatment or disposal system as specified in 567—subrule 64.3(8). For electronic submissions of records of operation, a signed paper copy of the record that was submitted electronically must be maintained at the facility for a minimum of three years.

ITEM 32. Adopt the following **new** rules 567—63.12(455B) to 567—63.14(455B):

567—63.12(455B) Twenty-four-hour reporting. All permittees shall report any permit noncompliance that may endanger human health or the environment including, but not limited to, violations of maximum daily limits for any toxic pollutant (listed as toxic under 307(a)(1) of the Act) or hazardous substance (as designated in 40 CFR Part 116 pursuant to 311 of the Act). Information shall be provided orally to the appropriate regional field office of the department within 24 hours from the time the permittee becomes aware of the circumstances. In addition, a written submission that includes a description of noncompliance and its cause; the period of noncompliance including exact dates and times; whether the noncompliance has been corrected or the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent a reoccurrence of the noncompliance must be provided to the regional field office within 5 days of the occurrence.

567—63.13(455B) Planned changes. The permittee shall give notice to the appropriate regional field office of the department 30 days prior to any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. Notice has not been given to any other section of the department;
2. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as defined in 567—60.2(455B);
3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices; or
4. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in the permit.

567—63.14(455B) Anticipated noncompliance. The permittee shall give notice to the appropriate regional field office of the department of any activity which may result in noncompliance with permit requirements. Notice is required only when previous notice has not been given to any other section of the department.

ITEM 33. Rescind Table I in **567—Chapter 63** and adopt the following **new** Table I in lieu thereof:

Table I Minimum Self-Monitoring in Permits for Organic Waste Dischargers
Controlled Discharge Wastewater Treatment Plants

Wastewater Parameter	Sampling ⁵ Location	Sample Type ⁴	Frequency by P.E. ^{1,5,6}			
			< 100	101-500	501-1,000	>1,001
Flow ²	Raw	24-Hr Total	1/Week	Daily	Daily	Daily
	Final	Instantaneous	2/Week During Drawdown	Daily During Drawdown		
BOD ₅	Raw	24-Hr Composite	--	--	--	1/3 Months
CBOD ₅ ³	Final	Grab	1/Drawdown ⁷	Twice during drawdown		
Total Suspended Solids (TSS) ¹	Raw	24-Hr Composite	--	--	--	1/3 Months
	Final	Grab	1/Drawdown ⁷	Twice during drawdown		

Wastewater Parameter	Sampling ⁵ Location	Sample Type ⁴	Frequency by P.E. ^{1,5,6}			
			< 100	101-500	501-1,000	>1,001
Ammonia Nitrogen	Final	Grab	1/Drawdown	Twice during drawdown		
<i>E.coli</i>	Final	Grab	1/Drawdown	1/Drawdown	Twice During Drawdown	
pH	Raw	Grab	--	--	--	1/3 Months
	Final	Grab	1/Drawdown	1/Drawdown	Twice During Drawdown	1/Week During Drawdown

Explanation of Superscripts

- 1 The P.E. shall be computed on the basis of the original engineering design criteria for the facility and any modifications thereof. Where such design criteria are not available, the P.E. shall be computed using 0.167 pounds of BOD₅ per capita per day.
- 2 Facilities serving a population equivalent less than 100 are not required to provide continuous flow measurement but are required to provide manual flow measurement at the specified frequency. Facilities serving a population equivalent greater than 100 are required to provide continuous flow measurement of the raw waste but need only provide manual flow measurement on the final effluent. Acceptable flow measurement and recording techniques shall be those described in "Iowa Wastewater Facilities Design Standards," Chapter 14 (14.7.2).
- 3 In addition to the sampling required above, a grab sample of the lagoon cell contents collected at a point near the outlet structure shall be analyzed at least two weeks prior to an anticipated discharge to demonstrate that the wastewater is of such quality to meet the effluent limitations in the permit. The permittee must have the sample analyzed for 5-day carbonaceous biochemical oxygen demand (CBOD₅) and total suspended solids (TSS). The results must be compared with the 30-day average effluent limits. If the results are less than the 30-day average limits, the permittee may isolate the final cell and draw down the lagoon cell. If the pre-discharge sample results exceed the 30-day average effluent limits for either CBOD₅ or TSS, the permittee must contact the local DNR Field Office for guidance before beginning to discharge.
- 4 Sample types are defined as:
 - "Grab Sample" means a representative, discrete portion of sewage, industrial waste, other waste, surface water or groundwater taken without regard to flow rate.
 - "24-Hour Composite" means:
 - a For facilities where no significant industrial waste is present, a sample made by collecting a minimum of six grab samples taken four hours apart and combined in proportion to the flow rate at the time each grab sample was collected. (Generally, grab samples should be collected at 8 a.m., 12 a.m. (noon), 4 p.m., 8 p.m., 12 p.m. (midnight), and 4 a.m. on weekdays (Monday through Friday) unless local conditions indicate another more appropriate time for sample collection.)
 - b For facilities where significant industrial waste is present, a sample made by collecting a minimum of 12 grab samples taken two hours apart and combined in proportion to the flow rate at the time each grab sample was collected. (Generally, grab samples should be collected at 8 a.m., 10 a.m., 12 a.m. (noon), 2 p.m., 4 p.m., 6 p.m., 8 p.m., 10 p.m., 12 p.m. (midnight), 2 a.m., 4 a.m., and 6 a.m. on weekdays (Monday through Friday) unless local conditions indicate another more appropriate time for sample collection.)
 - c An automatic composite sampling device may also be used for collection of flow-proportioned or time-proportioned composite samples.
- 5 Raw wastewater samples shall be taken continuously (year-round) at the specified frequency. Final effluent wastewater samples shall be taken only during the drawdown period. The first final effluent sample shall be taken the third day after the drawdown begins, and subsequent samples shall be taken at the specified frequencies. For final effluent samples that are required to be taken twice during drawdown, the first sample shall be taken the third day after the drawdown begins, and the second sample shall be taken between three (3) and five (5) days before the drawdown ends.
- 6 If a facility has a P.E. greater than 3000 or a significant industrial contributor, additional monitoring may be required.
- 7 One-cell controlled discharge lagoons with a P.E. less than 100 will be required to perform final effluent sampling for 5-day carbonaceous biochemical oxygen demand (CBOD₅) and total suspended solids (TSS) twice during drawdown in accordance with superscript #5.

ITEM 34. Rescind Table II in **567—Chapter 63** and adopt the following **new** Table II in lieu thereof:

**Table II Minimum Self-Monitoring in Permits for Organic Waste Dischargers
Continuous Discharge Wastewater Treatment Plants**

Wastewater Parameter	Sampling Location	Sample Type ^{3,11}	Frequency by P.E. ^{1,6}						
			≤ 100	101-500	501-1,000	1,001-3,000	3,001-15,000	15,001-105,000	> 105,000
Flow ²	Raw or Final	24-Hr Total	1/week	Daily	Daily	Daily	Daily	Daily	Daily
BOD ₅	Raw	24-Hr Comp.	1/6 Months	1/3 Months	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
CBOD ₅	Final	24-Hr Comp.	1/3 Months	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
Total Suspended Solids (TSS)	Raw	24-Hr Comp.	1/6 Months	1/3 Months	1/Month	1/2 Weeks	1/Week	2-5/Week ⁵	Daily
	Final	24-Hr Comp.	1/3 Months	1/3 Months	1/Month	1/2 Weeks	1/Week	2-5/Week ⁵	Daily
Ammonia Nitrogen ¹⁰	Final	24-Hr Comp.	1/Month	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
TKN ⁸	Raw	24-Hr Comp.	—	—	—	1/2 Months	1/Month	1/Month	1/2 Weeks
Total Nitrogen ⁹	Final	24-Hr Comp.	—	—	—	1/3 Months	1/3 Months	1/2 Months	1/2 Months
Total Phosphorus ⁸	Final	24-Hr Comp.	—	—	—	1/3 Months	1/3 Months	1/2 Months	1/2 Months
pH	Raw	Grab	—	—	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
	Final	Grab	1/3 Months	1/Month	1/Week	1/Week	2/Week	5/Week	Daily
<i>E. coli</i> ⁷	Final	Grab	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months
Temperature	Raw	Grab	—	—	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
	Final	Grab	1/3 Months	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily

Explanation of Superscripts

- 1 - See Superscript #1, Table I.
- 2 - See Superscript #2, Table I. Both raw and final flow monitoring may be required if the raw and final wastewater flows may be different for any reason.
- 3 - See Superscript #4, Table I.
- 4 - Analysis is required only when the facility discharges directly to a stream designated as Class A1, A2, or A3 or there is a reasonable potential for the discharge to affect a stream designated as Class A1, A2, or A3.
- 5 - The frequency of sample collection and analysis shall be increased by 1/week according to the following: 15,001 to 30,000 – 2/week; 30,001 to 45,000 – 3/week; 45,001 to 75,000 – 4/week; 75,001 – 105,000 – 5/week.
- 6 - The requirements for significant industrial users shall be those specified in the permit for final effluent monitoring.
- 7 - Bacteria Monitoring. All facilities must collect and analyze a minimum of five *E. coli* samples in one calendar month during each three-month period (quarter) during the appropriate recreation season associated with the receiving stream designation as specified in 567—subrule 61.3(3). For sampling required during the recreational season, March 15 to November 15, the three-month periods are March – May, June – August, and September – November. For year-round sampling, the three-month periods are January – March, April – June, July – September, and October – December. For each three-month period, the operator must take five samples during one calendar month, resulting in 15 samples in one year for

sampling required during the recreation season and 20 samples per year for sampling required year-round.

The following requirements apply to the individual samples collected in one calendar month:

- Samples must be spaced over one calendar month.
- No more than one sample can be collected on any one day.
- There must be a minimum of two days between each sample.
- No more than two samples may be collected in a period of seven consecutive days.

The geometric mean must be calculated using all valid sample results collected during a month.

The geometric mean formula is as follows: Geometric Mean = (Sample one x Sample two x Sample three x Sample four x Sample five...Sample N)^(1/N), which is the Nth root of the result of the multiplication of all of the sample results where N = the number of samples. If a sample result is a less than value, the value reported by the lab without the less than sign shall be used in the geometric mean calculation.

8 - Additional Total Kjeldahl Nitrogen (TKN) monitoring may be required if the facility has one or more significant industrial users or has effluent ammonia violations.

9 - Total nitrogen shall be determined by testing for Total Kjeldahl Nitrogen (TKN) and nitrate + nitrite nitrogen and reporting the sum of the TKN and nitrate + nitrite results (reported as N). Nitrate + nitrite can be analyzed together or separately. Total phosphorus shall be reported as P.

10 - Ammonia nitrogen monitoring is only required for facilities with ammonia nitrogen effluent limitations.

11- For aerated lagoons, 24-hour composite samples are not required on the final effluent; grab samples are acceptable.

ITEM 35. Amend Table III in **567—Chapter 63** as follows:

Table III Operational Monitoring Requirements in Permits

LAGOONS

Parameter	Sampling Location	Sample Type	Frequency by P.E. ¹						
			< 100	101-500	501-1,000	1,001-3,000	3,001-15,000	15,001-105,000	> 105,000
Cell Depth	Each Cell	Measurement	1/Week	1/Week	1/Week	2/Week	2/Week	2/Week	2/Week

AERATED LAGOONS

Dissolved Oxygen	Cell Contents	Grab	1/Month	1/2 Weeks	1/2 Weeks	1/Week	2/Week	2/Week	2/Week
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TRICKLING FILTERS

Recirculation	---	Measurement	1/Week	1/Week	1/Week	2/Week	3/Week	5/Week	7/Week
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ACTIVATED SLUDGE

MLSS	Aeration Basin Contents	Grab	1/Month	1/Week	1/Week	2/Week	3/Week	5/Week	7/Week
Dissolved Oxygen	Aeration Basin Contents	Grab	1/Week	1/Week	2/Week	2/Week	3/Week	5/Week	7/Week
Temperature	Aeration Basin Contents	Grab	1/Week	1/Week	2/Week	2/Week	3/Week	5/Week	7/Week
30-Minute Settleability	Aeration Basin Contents	Grab	1/Week	1/Week	2/Week	2/Week	3/Week	5/Week	7/Week

ANAEROBIC DIGESTER

Temperature	Digester Contents	Grab	1/Week	1/Week	2/Week	2/Week	3/Week	5/Week	7/Week
pH	Digester Contents	Grab	1/Week	1/Week	2/Week	2/Week	3/Week	5/Week	7/Week
Alkalinity	Digester Contents	Grab	---	---	---	1/Week	1/Week	2/Week	2/Week
Volatile Acids	Digester Contents	Grab	---	---	---	1/Week	1/Week	2/Week	2/Week

AEROBIC DIGESTER

Dissolved Oxygen	Digester Contents	Grab	---	---	1/Week	2/Week	3/Week	5/Week	7/Week
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CHLORINATION FACILITIES

Total Residual Chlorine	Final Effluent	Grab	1/Week	1/Week	2/Week	2/Week	3/Week	5/Week	7/Week
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SEQUENCING BATCH REACTORS

<u>Total Suspended Solids</u>	<u>Aeration Basin Effluent</u>	<u>Grab¹</u>	<u>1/Week</u>	<u>1/Week</u>	<u>2/Week</u>	<u>2/Week</u>	<u>3/Week</u>	<u>5/Week</u>	<u>7/Week</u>
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CLARIFIERS

<u>Settleable Solids</u>	<u>Effluent after final clarifier</u>	<u>Grab</u>	<u>1/Week</u>	<u>1/Week</u>	<u>2/Week</u>	<u>2/Week</u>	<u>3/Week</u>	<u>5/Week</u>	<u>7/Week</u>
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Explanation of Superscripts

1 - See ~~Footnote~~ Superscript #1, Table I.

2 - Alternative test methods for operational monitoring:

Dissolved Oxygen	—	Pao Titration
MLSS	—	Spectrophotometric, Centrifuge
pH	—	Colorimetric Comparator, <u>Meter</u>
30-Minute Settleability	—	Standard Methods Test 213C
Alkalinity	—	Standard Methods Test 403
Volatile Acids	—	Standard Methods Test 504A
Residual Chlorine	—	Colorimetric Comparator, <u>Meter</u>

3 - The TSS grab sample of the aeration basin effluent should be taken at the point of maximum effluent turbidity.

ITEM 36. Rescind Table V in **567—Chapter 63**.

ITEM 37. Renumber Table VI in **567—Chapter 63** as Table V.

ITEM 38. Adopt **new** numbered paragraph “2” in **567—Chapter 63**, renumbered Table V, as follows:

2 *Escherichia coli* (*E. coli*)

P,G

Cool, 4°C

6 hours

ITEM 39. Rescind and reserve rule **567—64.1(455B)**.

ITEM 40. Amend subrule 64.2(1) as follows:

64.2(1) No person shall construct, install or modify any wastewater disposal system or part thereof or extension or addition thereto without, or contrary to any condition of, a construction permit issued by the director or by a local public works department authorized to issue such permits under 567—Chapter 9, nor shall any connection to a sewer extension in violation of any special limitation specified in a construction permit pursuant to 64.2(10), ~~paragraph “a,” “b,” or “f”~~ be allowed by any person subject to the conditions of the permit.

ITEM 41. Amend subrule 64.2(3), introductory paragraph, as follows:

64.2(3) Site approval under 64.2(2) shall be based on the criteria contained in the Ten States Standards, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent that separation distances of this subrule conflict with the separation distances of ~~567—subrule 23.5(1) or 23.5(2)~~ Iowa Code section 455B.134(3)“f” the greater distance shall prevail. The following separation distances from ~~treatment or lagoon water surface~~ a treatment works shall apply ~~÷ unless a separation distance exception is provided in the “Iowa Wastewater Facilities Design Standards.”~~ The separation distance from lagoons shall be measured from the water surface.

ITEM 42. Adopt the following **new** paragraph **64.2(8)“c”**:

c. A privately owned pretreatment facility, except an anaerobic lagoon, where a treatment unit or units provide partial reduction of the strength or toxicity of the waste stream prior to additional treatment and disposal by another person, corporation, or municipality. However, the department may require that the design basis and construction drawings be filed for information purposes.

ITEM 43. Amend subrule 64.3(1) as follows:

64.3(1) Except as ~~provided~~ otherwise provided in this subrule ~~and, in 567—Chapter 65, and in 567—Chapter 69,~~ no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the director; ~~nor shall the permittee of a system to which a sewer extension has been made under a construction permit limited pursuant to 64.2(10), paragraph “a,” “b” or “f,” allow a connection to such sewer extension in violation of any special limitation in such construction permit.~~ An operation permit is not required for the following:

a. ~~Private~~ A private sewage disposal system which does not discharge into, or have the potential to reach, a designated water of the state or subsurface drainage tile - (NOTE: private sewage disposal systems under this exemption are regulated under 567—Chapter 69);

b. No change.

~~c. Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. Provided, that this exclusion shall not be construed to apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to discharges when the vessel is being used in a capacity other than as a means of transportation.~~

~~d. Discharges to aquaculture projects as defined in 40 CFR §122.25 (eff. 12-18-84).~~

~~c. A pretreatment system, the effluent of which is to be discharged directly to another disposal~~

system for final treatment and disposal:

- ~~d. A discharge from a geothermal heat pump which does not reach a navigable water.~~
- ~~e. Discharges of dredged or fill material into navigable waters which are regulated under Section 404 of the Act.~~
- ~~f. Any discharge of pollutants directly to another waste disposal system for final treatment and disposal, with the exception of storm water point sources. (This exclusion from requiring an operation permit applies only to the actual addition of materials into the subsequent treatment works. Plans or agreements to make such additions in the future do not relieve dischargers of the obligation to apply for and receive permits until the discharges of pollutants to navigable waters are actually eliminated. It also should be noted that, in all appropriate cases, pretreatment standards promulgated by the administrator pursuant to Section 307(b) of the Act and adopted by reference by the commission and other pretreatment standards and requirements must be complied with.)~~
- ~~g. Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR Part 300 [The National Oil and Hazardous Substances Pollution Plan] or 33 CFR §153.10(e) [Pollution by Oil and Hazardous Substances].~~
- ~~h. Water pollution from agricultural and silvicultural activities, runoff from orchards, cultivated crops, pastures, rangelands, and forestlands, except that this exclusion shall not apply to the following:~~
 - ~~(1) Discharges from concentrated aquatic animal production facilities as defined in 40 CFR §122.24 (eff. 12-18-84);~~
 - ~~(2) Discharges from concentrated animal feeding operations as defined in 40 CFR §122.23 (eff. 12-18-84);~~
 - ~~(3) Discharges from silvicultural point sources as defined in 40 CFR §122.27 (eff. 12-18-84);~~
 - ~~(4) Storm water discharge associated with industrial activity as defined in 567—Chapter 60.~~
- ~~i. Return flows from irrigated agriculture.~~

ITEM 44. Amend subrule 64.3(3) as follows:

64.3(3) The owner of any disposal system or part thereof in existence before August 21, 1973, for which a permit has been previously granted by the Iowa department of health or the Iowa department of environmental quality shall submit such information as the director may require to determine the conformity of such system and its operation with the rules of the department by no later than 60 days after the receipt of a request for such information from the director. If the director determines that the disposal system does not conform to the rules of the department, the director may require the owner to make such modifications as are necessary to achieve compliance. A construction permit shall be required, pursuant to 64.2(1), prior to any such modification of the disposal system.

ITEM 45. Amend subrule 64.3(4) as follows:

64.3(4) Applications.

a. *Individual permit.* Except as provided in 64.3(4)“b,” ~~or 64.3(4)“c,”~~ applications for operation permits required under 64.3(1) shall be made on forms provided by the department, as noted in 567—subrule 60.3(2). The application for an operation permit under 64.3(1) shall be filed at least 180 days prior to the date operation is scheduled to begin unless a shorter period of time is approved by the director pursuant to 567—subrule 60.4(2). Permit applications for a new discharge of storm water associated with construction activity as defined in 567—Chapter 60 under “storm water discharge associated with industrial activity” must be submitted at least 60 days before the date on which construction is to commence. ~~Applications submitted to the department must be accompanied by the appropriate permit fee as specified in rule 64.16(455B). The~~ Upon completion of a tentative determination with regard to the permit application as described in 64.5(1)“a,” the director shall issue operation permits for applications filed pursuant to 64.3(1) within 90 days of the receipt of a complete application unless the application is for an NPDES permit or unless a longer period of time is required and the applicant is so notified. ~~The director may require the submission of additional information deemed necessary to evaluate the application. If the application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.~~

- b. No change.
- ~~c. *Group applications.* Group applications identified in 40 CFR Part 122.26(c)(2) as amended through June 15, 1992, that were submitted and approved by the U.S. Environmental Protection Agency will be accepted by the department as an application for an NPDES permit for a storm water discharge associated with industrial activity. A copy of the group application does not need to be submitted to the department. The department will notify a participant in a group application of the required application and individual permit fees as specified in 64.16(3)“b” if an industry specific general permit is not available for the participants in the group.~~

ITEM 46. Amend subrule 64.3(5) as follows:

64.3(5) Requirements for industries that discharge to another disposal system except storm water point sources.

a. The director may require any person discharging wastes to a publicly or privately owned disposal system to submit information similar to that required in an application for an operation permit, but no operation permit is required for such discharge.

~~Major contributing industries~~ Significant industrial users as defined in 567—Chapter 60 must submit a treatment agreement which meets the following criteria:

(1) The agreement must be on ~~a form~~ the treatment agreement form, number 542-3221, as provided by the department; and

(2) No change.

(3) Be signed and dated by the ~~industrial contributor~~ significant industrial user and the owner of the disposal system accepting the wastewater; and

(4) No change.

b. A ~~major contributing industry~~ significant industrial user must submit a new treatment agreement form 60 days in advance of a proposed expansion, production increase or process modification that may result in discharges of sewage, industrial waste, or other waste in excess of the discharge stated in the existing treatment agreement. An industry that would become a ~~major contributing industry~~ significant industrial user as a result of a proposed expansion, production increase or process modification ~~should~~ shall submit a treatment agreement form 60 days in advance of the proposed expansion, production increase or process modification.

c. A treatment agreement form must be submitted at least 180 days before a new ~~major contributing industry~~ significant industrial user proposes to discharge into a wastewater disposal system. The owner of a wastewater disposal system shall notify the director by submitting a complete treatment agreement to be received at least ~~ten~~ 10 days prior to making any commitment to accept waste from a proposed new ~~major contributing industry~~ significant industrial user. However, the department may notify the owner that verification of the data in the treatment agreement may take longer than ~~ten~~ 10 days and advise that the owner should not enter into a commitment until the data is verified.

d. A treatment agreement form for each ~~major contributing industry~~ significant industrial user must be submitted with the facility plan or preliminary engineering report for the construction or modification of a wastewater disposal system. These agreements will be used in determining the design basis of the new or upgraded system.

e. Treatment agreement forms from ~~major contributing industries~~ significant industrial users shall be required as a part of the application for a permit to operate the wastewater disposal system receiving the wastes from the ~~major contributing industry~~ significant industrial user.

ITEM 47. Amend subrule 64.3(8) as follows:

64.3(8) Identity of signatories of ~~operation~~ permit applications. The person who signs the application for ~~an operation~~ a permit shall be:

a. *Corporations.* In the case of corporations, ~~a principal executive officer of at least the level of vice president~~ a responsible corporate officer. A responsible corporate officer means:

(1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or

(2) The manager of manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. and c. No change.

d. ~~Public facilities~~ Municipal, state, federal, or other public agency. In the case of a municipal, state, or other public facility, ~~by~~ either the principal executive officer, or the ranking elected official. A principal executive officer of a public agency includes:

(1) The chief executive officer of the agency; or

(2) A senior executive officer having responsibility for the overall operations of a unit of the agency.

e. Storm water discharge associated with industrial activity from construction activities. In the case of a storm water discharge associated with construction activity, either the owner of the site or the general contractor.

~~The person who signs NPDES reports shall be the same, except that in the case of a corporation or a public body, monitoring reports required under the terms of the permit may be submitted by the person who is responsible for the overall operation of the facility from which the discharge originates.~~

f. Certification. Any person signing a document under paragraph "a" to "d" of this subrule shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations.

The person who signs NPDES reports shall be a person described in this subrule, except that in the case of a corporation or a public body, monitoring reports required under the terms of the permit may be submitted by a duly authorized representative of the person described in this subrule. A person is a duly authorized representative if the authorization is made in writing by a person described in this subrule and the authorization specifies an individual or position having responsibility for the overall operation of the regulated facility, such as plant manager, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the corporation.

ITEM 48. Amend subrule 64.3(9) as follows:

64.3(9) When necessary to comply with present standards which must be met at a future date, an operation permit shall include a schedule for the alteration of the permitted facility to meet said standards. Such schedules shall not relieve the permittee of the duty to obtain a construction permit pursuant to 64.2(455B). When necessary to comply with a pretreatment standard or requirement which must be met at a future date, a ~~major contributing industry~~ significant industrial user will be given a compliance schedule for meeting those requirements.

ITEM 49. Amend subrule 64.3(11) as follows:

64.3(11) The director may ~~suspend or revoke~~ amend, revoke and reissue, or terminate in whole or in part any individual operation permit or coverage under a general permit for cause. Except for general permits, the director may modify in whole or in part any individual operation permit for cause. A variance or modification to the terms and conditions of a general permit shall not be granted. If a variance or modification to a general permit is desired, the applicant must apply for an individual permit following the procedures in 64.3(4) "a."

Cause for modification, suspension or revocation of a permit includes the following:

a. Permits may be amended, revoked and reissued, or terminated for cause either at the request of any interested person (including the permittee) or upon the director's initiative. All requests shall be in writing and shall contain facts or reasons supporting the request.

b. Cause under this subrule includes the following:

- ~~a-~~ (1) Violation of any term or condition of the permit.
- ~~b-~~ (2) Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.
- ~~c-~~ (3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- ~~d-~~ (4) Failure to submit such records and information as the director shall require both generally and as a condition of the operation permit in order to ensure compliance with the discharge conditions specified in the permit.
- ~~e-~~ (5) Failure or refusal of an NPDES permittee to carry out the requirements of 64.7(5) "c."
- ~~f-~~ (6) Failure to provide all the required application materials or appropriate fees.
- (7) A request for a modification of a schedule of compliance, an interim effluent limitation, or the minimum monitoring requirements pursuant to 567—paragraph 60.4(2) "b."
- (8) Causes listed in 40 CFR 122.62 and 122.64.
- c. The permittee shall furnish to the director, within a reasonable time, any information that the director may request to determine whether cause exists for amending, revoking and reissuing, or terminating a permit, including a new permit application.
- d. The filing of a request by an interested person for an amendment, revocation and reissuance, or termination does not stay any permit condition.
- e. If the director decides the request is not justified, the director shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, hearings, or appeals.
- f. Draft permits.
- (1) If the director tentatively decides to amend, revoke and reissue, or terminate a permit, a draft permit shall be prepared according to 64.5(1).
- (2) When a permit is amended under this paragraph, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the permit.
- (3) When a permit is revoked and reissued under this paragraph, the entire permit is reopened just as if the permit had expired and was being reissued.
- (4) If the permit amendment falls under the definition of "minor amendment" in 567—60.2(455B), the permit may be amended without a draft permit or public notice.
- (5) During any amendment, revocation and reissuance, or termination proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

ITEM 50. Adopt the following **new** subrule 64.3(12):

64.3(12) No permit may be issued:

- a. When the applicant is required to obtain certification under Section 401 of the Clean Water Act and that certification has not been obtained or waived;
- b. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; or
- c. To a new source or new discharger if the discharge from its construction or operation will cause or contribute to a violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge to a water segment which does not meet applicable water quality standards must demonstrate, before the close of the public comment period for a draft NPDES permit, that:
 - (1) There is sufficient remaining load in the water segment to allow for the discharge; and
 - (2) The existing dischargers to the segment are subject to compliance schedules designed to bring the segment into compliance with water quality standards.

The director may waive the demonstration if the director already has adequate information to demonstrate (1) and (2).

ITEM 51. Amend subrule 64.4(1) as follows:

64.4(1) Individual permit. ~~The director shall, when an operation permit expires and an NPDES permit is required for the discharge, and, upon proper application, issue an individual NPDES permit in accordance with 64.5(455B), 64.7(455B), 64.8(1) and 64.9(455B).~~ An individual NPDES permit is required when there is a discharge of a pollutant from any point source into navigable waters. An NPDES permit is not required for the following:

- a. Reserved.
- b. Discharges of dredged or fill material into navigable waters which are regulated under Section 404 of the Act;
- c. The introduction of sewage, industrial wastes or other pollutants into a POTW by indirect dischargers. (This exclusion from requiring an NPDES permit applies only to the actual addition of materials into the subsequent treatment works. Plans or agreements to make such additions in the future do not relieve dischargers of the obligation to apply for and receive permits until the discharges of pollutants to navigable waters are actually eliminated. It also should be noted that, in all appropriate cases, indirect discharges shall comply with pretreatment standards promulgated by the administrator pursuant to Section 307(b) of the Act and adopted by reference by the commission);
- d. Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances);
- e. Any introduction of pollutants from non-point source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to the following:
 - (1) Discharges from concentrated animal feeding operations as defined in 40 CFR 122.23;
 - (2) Discharges from concentrated aquatic animal production facilities as defined in 40 CFR 122.24;
 - (3) Discharges to aquaculture projects as defined in 40 CFR 122.25;
 - (4) Discharges from silvicultural point sources as defined in 40 CFR 122.27;
- f. Return flows from irrigated agriculture; and
- g. Water transfers, which are defined as activities that convey or connect navigable waters without subjecting the transferred water to intervening industrial, municipal, or commercial use.

ITEM 52. Adopt the following **new** subrule 64.4(3):

64.4(3) Effect of a permit.

a. Except for any toxic effluent standards and prohibitions imposed under Section 307 of the Act and standards for sewage sludge use or disposal under Section 405(d) of the Act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318, 403 and 405(a)-(b) of the Act, and equivalent limitations and standards set out in 567— Chapters 61 and 62. However, a permit may be terminated during its term for cause as set forth in 64.3(11). Compliance with a permit condition which implements a particular standard for sewage sludge use or disposal shall be an affirmative defense in any enforcement action brought for a violation of that standard for sewage sludge use or disposal.

b. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

ITEM 53. Amend subrule 64.5(1) as follows:

64.5(1) Formulation of tentative determination ~~and draft NPDES permit.~~ The department shall make a tentative determination to issue or deny an operation or NPDES permit for the discharge described in a Refuse Act or NPDES permit application in advance of the public notice ~~of~~ as described in 64.5(2).

a. If the tentative determination is to issue the an NPDES permit, the department shall prepare a permit rationale for each draft permit pursuant to 64.5(3) and a draft NPDES permit. The draft permit shall include the following:

~~a-~~ (1) Effluent limitations identified pursuant to 64.6(2) and 64.6(3), for those pollutants proposed to be limited.

~~b-~~ (2) If necessary, a proposed schedule of compliance, including interim dates and requirements, identified pursuant to ~~64.6(4)~~ 64.7(4), for meeting the effluent limitations and other permit requirements.

~~c-~~ (3) Any other special conditions (other than those required in 64.6(5)) which will have a significant impact upon the discharge described in the NPDES permit application.

b. If the tentative determination is to deny an NPDES permit, the department shall prepare a notice of intent to deny the permit application. The notice of intent to deny an application will be placed on public notice as described in 64.5(2).

c. If the tentative determination is to issue an operation permit (non-NPDES permit), the department shall prepare a final permit and transmit the final permit to the applicant. The applicant will have 30 days to appeal the final operation permit.

d. If the tentative determination is to deny an operation permit (non-NPDES permit), no public notice is required. The department shall send written notice of the denial to the applicant. The applicant will have 30 days to appeal the denial.

ITEM 54. Amend subrule 64.5(2) as follows:

64.5(2) Public notice for NPDES permits.

a. Prior to the issuance of an NPDES permit, a major NPDES permit amendment, or the denial of a permit application for an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the procedures of subparagraphs (1) to (3).

(1) The public notice for a draft NPDES permit or major permit amendment shall be circulated by the applicant within the geographical areas of the proposed discharge by posting the public notice in the post office and public places of the city nearest the premises of the applicant in which the effluent source is located; by posting the public notice near the entrance to the applicant's premises and in nearby places; and by publishing the public notice in local newspapers and periodicals, or, if appropriate, in a newspaper of general circulation. The public notice for the denial of a permit application shall be sent to the applicant and circulated by the department within the geographical areas of the proposed discharge by publishing the public notice in local newspapers and periodicals, or, if appropriate, in a newspaper of general circulation.

(2) The public notice shall be ~~mailed~~ sent by the department to any person upon request.

(3) Upon request, the department shall add the name of any person or group to the ~~mailing distribution list, described in 567-4.2(455B)~~, to receive copies of all public notices concerning proposed NPDES permits the tentative determinations with respect to the permit applications within the state or within a certain geographical area and shall ~~mail~~ send a copy of all public notices to such persons.

b. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the NPDES permit application and request a public hearing pursuant to 64.5(6). Written comments may be submitted by paper or electronic means. All ~~written~~ comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director's final determinations with respect to the NPDES permit application. The period for comment may be extended at the discretion of the department. Pertinent and significant comments received during either the original comment period or an extended comment period shall be responded to in a responsiveness summary pursuant to 64.5(8).

c. The contents of the public notice of a proposed draft NPDES permit, a major permit amendment, or the denial of a permit application for an NPDES permit shall include at least the following:

(1) and (2) No change.

(3) A brief description of each applicant's activities or operations which result in the discharge described in the NPDES permit application (e.g., municipal waste treatment plant, corn wet milling

plant, or meat packing plant).

(4) No change.

(5) A statement of the department's tentative determination to issue or deny an NPDES permit for the discharge or discharges described in the NPDES permit application.

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph "b" of this subrule, procedures for requesting a public hearing and any other means by which interested persons may influence or comment upon those determinations.

(7) The address ~~and~~, telephone number, and E-mail address of places at which interested persons may obtain further information, request a copy of the ~~draft permit tentative determination and any associated documents~~ prepared pursuant to 64.5(1), request a copy of the ~~fact sheet, if any, permit rationale~~ described in 64.5(3), and inspect and copy NPDES permit forms and related documents.

d. No public notice is required for a minor permit amendment, including an amendment to correct typographical errors, include more frequent monitoring requirements, revise interim compliance schedule dates, change the owner name or address, include a local pretreatment program, or remove a point source outfall that does not result in the discharge of pollutants from other outfalls.

e. No public notice is required when a request for a permit amendment or a request for a termination of a permit is denied. The department shall send written notice of the denial to the requester and the permittee only. No public notice is required if an applicant withdraws a permit application.

ITEM 55. Amend subrule 64.5(3) as follows:

64.5(3) ~~Fact sheets~~ Permit rationales and notices of intent to deny.

a. ~~For every discharge which has a total volume of more than 500,000 gallons on any day of the year. When the department has made a determination to issue an NPDES permit as described in 64.5(1), the department shall prepare and, upon request, shall send to any person a fact sheet permit rationale with respect to the application described in the public notice. The contents of such fact sheets permit rationales shall include at least the following information:~~

(1) ~~A sketch or detailed description of the location of the discharge described in the NPDES permit application.~~

(2) ~~A quantitative description of the discharge described in the NPDES permit application which includes: at least the following: the rate or frequency of the proposed discharge (if the discharge is continuous, the average daily flow in gallons per day or million gallons per day); for thermal discharges subject to limitation under the Act, the average summer and winter discharge temperatures in degrees Fahrenheit; and the average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under Section 301, 302, 306 or 307 of the Act and regulations published thereunder.~~

1. The average daily discharge in pounds per day of any pollutants which are subject to limitations or prohibitions under 64.7(2) or Section 301, 302, 306 or 307 of the Act and regulations published thereunder; and

2. For thermal discharges subject to limitation under the Act, the average and maximum summer and winter discharge temperatures in degrees Fahrenheit.

(3) and (4) No change.

~~(5) A fuller description of the procedures for the formulation of final determinations than that given in the public notice including: the 30-day comment period required by 64.5(2); procedures for requesting a public hearing and the nature thereof; and any other procedures by which the public may participate in the formulation of the final determinations.~~

(5) An explanation of the principal facts and the significant factual, legal, methodological, and policy questions considered in the preparation of the draft permit.

(6) Any calculations or other necessary explanation of the derivation of effluent limitations.

b. When the department has made a determination to deny an application for an NPDES permit as described in 64.5(1), the department shall prepare and, upon request, shall send to any person a

notice of intent to deny with respect to the application described in the public notice. The contents of such notice of intent to deny shall include at least the following information:

- (1) A detailed description of the location of the discharge described in the permit application; and
- (2) A description of the reasons supporting the tentative decision to deny the permit application.

c. When the department has made a determination to issue an operation permit as described in 64.5(1), the department shall prepare a short description of the waste disposal system and the reasons supporting the decision to issue an operation permit. The description shall be sent to the operation permit applicant upon request.

d. When the department has made a determination to deny an application for an operation permit as described in 64.5(1), the department shall prepare and send written notice of the denial to the applicant only. The written denial shall include a description of the reasons supporting the decision to deny the permit application.

~~b- c.~~ Upon request, the department shall add the name of any person or group to a mailing distribution list, described in 4.2(455B), to receive copies of fact sheets permit rationales and notices of intent to deny and shall mail send a copy of all fact sheets permit rationales and notices of intent to deny to such person persons or groups.

ITEM 56. Amend subrule 64.5(4) as follows:

64.5(4) Notice to other government agencies. Prior to the issuance of an NPDES permit, the department shall notify other appropriate government agencies of each complete application for an NPDES permit and shall provide such agencies an opportunity to submit their written views and recommendations. Notifications may be distributed, and written views or recommendations may be submitted by paper or electronic means. Procedures for such notification shall include the procedures of paragraphs “a” to “~~d.~~” “f.”

a. At the time of issuance of public notice pursuant to 64.5(2), the department shall transmit the ~~fact sheet, if any,~~ public notice to any other state whose waters may be affected by the issuance of the NPDES permit ~~and, upon request, the department shall provide such state with a copy of the NPDES application and a copy of the proposed permit prepared pursuant to 64.5(1).~~ Each affected state shall be afforded an opportunity to submit written recommendations to the department and to the regional administrator which the director may incorporate into the permit if issued. Should the director fail to incorporate any written recommendation thus received, the director shall provide to the affected state or states and to the regional administrator a written explanation of the reasons for failing to accept any written recommendation.

b. At the time of issuance of public notice pursuant to 64.5(2), the department shall ~~mail send~~ the public notice for proposed discharges (other than minor discharges) into navigable waters ~~and the fact sheet, if any,~~ to the appropriate district engineer of the army corps of engineers.

(1) The department and the district engineer for each corps of engineers district within the state may arrange for: notice to the district engineer of minor discharges; waiver by the district engineer of the right to receive ~~fact sheets~~ public notices with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular navigable waters or parts thereof; and any procedures for the transmission of forms, period of comment by the district engineer (e.g., 30 days), and for objections of the district engineer.

(2) A copy of any written agreement between the department and a district engineer shall be forwarded to the regional administrator and shall be available to the public for inspection and copying in accordance with 567—~~Chapter 4~~ Chapter 2.

c. Upon request, the department shall ~~mail send~~ the public notice ~~and fact sheet, if any,~~ to any other federal, state, or local agency, or any affected ~~country~~ county, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to 64.5(6).

d. The department shall ~~mail send~~ the public notice ~~and fact sheet, if any,~~ for any proposed NPDES permit within the geographical area of a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288).

e. The department shall ~~mail send~~ the public notice ~~and fact sheet, if any,~~ to the local board of

health for the purpose of assisting the applicant in coordinating the applicable requirements of the Act and Iowa Code chapter 455B with any applicable requirements of the local board of health.

f. Upon request, the department shall provide any of the entities listed in 64.5(4)“a” through “e” with a copy of the permit rationale, permit application, or proposed permit prepared pursuant to 64.5(1).

ITEM 57. Amend subrule 64.5(5) as follows:

64.5(5) Public access to NPDES information. The records of the department connected with NPDES permits are available for public inspection and copying to the extent provided in 567—~~Chapter 4~~ Chapter 2.

ITEM 58. Amend subrule 64.5(7) as follows:

64.5(7) Public notice of public hearings on proposed NPDES permits.

a. Public notice of any hearing held pursuant to 64.5(6) shall be circulated at least as widely as was the notice of the ~~NPDES~~ tentative determinations with respect to the permit application.

(1) No change.

(2) Notice shall be sent to all persons and government agencies which received a copy of the notice ~~or the fact sheet~~ for the ~~NPDES~~ permit application;

(3) and (4) No change.

b. The contents of public notice of any hearing held pursuant to 64.5(6) shall include at least the following:

(1) and (2) No change.

(3) The name of the ~~waterway~~ water body to which each discharge is made and a short description of the location of each discharge ~~on to the waterway~~ water body;

(4) A brief reference to the public notice issued for each NPDES application, including ~~identification number and~~ the date of issuance;

(5) and (6) No change.

(7) A concise statement of the issues raised by the person ~~or persons~~ requesting the hearing;

(8) The address and telephone number of the premises where interested persons may obtain further information, request a copy of the draft NPDES permit prepared pursuant to 64.5(1), request a copy of the ~~fact sheet, if any,~~ permit rationale prepared pursuant to 64.5(3), and inspect and copy ~~NPDES permit~~ forms and related documents; ~~and~~

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed; ~~and~~

(10)The final date for submission of comments (paper or electronic) regarding the tentative determinations with respect to the permit application.

ITEM 59. Adopt the following **new** subrule 64.5(8):

64.5(8) Response to comments. At the time a final NPDES permit is issued, the director shall issue a response to significant and pertinent comments in the form of a responsiveness summary. A copy of the responsiveness summary shall be sent to the permit applicant, and the document shall be made available to the public upon request. The responsiveness summary shall:

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the changes; and

b. Briefly describe and respond to all significant and pertinent comments on the draft permit raised during the public comment period provided for in the public notice or during any hearing. Comments on a draft permit may be submitted by paper or electronic means or orally at a public hearing.

ITEM 60. Amend paragraph **64.7(2)“f”** as follows:

f. Any other limitation, including those:

(1) Necessary to meet water quality standards, treatment or pretreatment standards, or schedules of compliance established pursuant to any Iowa law or regulation, or to implement the ~~policy of nondegradation~~ antidegradation policy in 567—subrule 61.2(2); or

(2) to (4) No change.

ITEM 61. Reletter paragraph **64.7(2)“g”** as **“h.”**

ITEM 62. Adopt the following new paragraph **64.7(2)“g”**:

g. Limitations must control all pollutants or pollutant parameters which the director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including narrative criteria, in 567—Chapter 61. When the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion of the water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.

ITEM 63. Amend relettered paragraph **64.7(2)“h”** as follows:

h. Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to Section 208(b) of the Act.

In any case where an NPDES permit applies to effluent standards and limitations described in paragraph “a,” “b,” “c,” “d,” “e,” “f,” ~~or~~ “g,” or “h,” the director must state that the discharge authorized by the permit will not violate applicable water quality standards and must have prepared some verification of that statement. In any case where an NPDES permit applies any more stringent effluent limitation, described in 64.7(2)“f”(1), or “g,” based upon applicable water quality standards, a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

ITEM 64. Amend subrule 64.7(5) as follows:

64.7(5) Other terms and conditions of issued NPDES permits. Each issued NPDES permit shall provide for and ensure the following:

a. No change.

b. That the permit may be ~~modified, suspended or revoked~~ amended, revoked and reissued, or terminated in whole or in part for the causes provided in ~~64.3(11); 64.3(11)“b.”~~

c. No change.

d. That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the director of the following:

(1) One hundred eighty days in advance of any new introduction of pollutants into such treatment works from ~~a source which would be a new source as defined in Section 306 of the Act~~ 567—Chapter 60 if such source were discharging pollutants;

(2) Except as specified below, 180 days in advance of any new introduction of pollutants into such treatment works from a source which would be subject to Section 301 of the Act if such source were discharging pollutants. However, the connection of such a source need not be reported if the source contributes less than ~~50,000~~ 25,000 gallons of process wastewater per day at the ~~maximum~~ average discharge, or contributes less than 5 percent of the organic or hydraulic loading of the treatment facility, or is not subject to a federal pretreatment standard adopted by reference in 567—Chapter 62, or does not contribute ~~toxic materials~~ pollutants that may ~~adversely affect the treatment process or any waste that may have an adverse or deleterious impact on the treatment process~~ cause interference or pass through; and

(3) No change.

Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

e. No change.

f. That the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of treatment and control which have been installed or are used by the permittee to achieve compliance with the terms and conditions of the permit. Proper operation and maintenance also include adequate laboratory control and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which have

been installed by the permittee only when such operation is necessary to achieve compliance with the conditions of the permit.

g. to j. No change.

ITEM 65. Amend paragraphs **64.7(6)“a”** and **“b”** as follows:

a. The director shall notify the owner of a POTW of the plan of action requirement, and of an opportunity to meet with department staff to discuss the plan of action requirements. The POTW owner shall submit a plan of action to the appropriate regional field office of the department within six months of such notice, unless a longer time is needed and is authorized in writing by the director.

b. The plan of action will vary in length and complexity depending on the compliance history and physical status of the particular POTW. It must identify the deficiencies and needs of the system, describe the causes of such deficiencies or needs, propose specific measures (including an implementation schedule) that will be taken to correct the deficiencies or meet the needs, and discuss the method of financing the improvements proposed in the plan of action.

The plan may provide for a phased construction approach to meet interim and final limitations, where financing is such that a long-term project is necessary to meet final limitations, and shorter term projects may provide incremental benefits to water quality in the interim.

Information on the purpose and preparation of the plan can be found in the departmental document entitled “Guidance on Preparing a Plan of Action,” available ~~through the records center of the department~~ from the department's regional field offices.

ITEM 66. Amend rule 567—64.8(455B) as follows:

567—64.8(455B) Reissuance of operation and NPDES permits.

64.8(1) Individual operation and NPDES permits. Individual operation and NPDES permits will be reissued according to the procedures identified in 64.8(1) “a” to “c.”

a. Any ~~state~~ operation or NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least 180 days prior to the expiration of the permit pursuant to 567—60.4(455B). For a POTW, permission to submit an application at a later date may be granted by the director. ~~The application may be a simple written request. However, In addition,~~ the applicant ~~for reissuance~~ must submit or have submitted information to show:

(1) That the permittee is in compliance or has substantially complied with all the terms, conditions, requirements and schedules of compliance of the expiring operation or NPDES permit.

(2) and (3) No change.

b. and c. No change.

64.8(2) No change.

64.8(3) Continuation of expiring operation and NPDES permits.

a. The conditions of an expired operation or NPDES permit will continue in force until the effective date of a new permit if:

(1) The permittee has submitted a complete application under 60.4(2); and

(2) The department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

b. Operation and NPDES permits continued under this subrule remain fully effective and enforceable.

c. If a permittee is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(1) Initiate enforcement action on the permit which has been continued;

(2) Issue a notice of intent to deny a permit under 64.5(1);

(3) Reissue a permit with appropriate conditions in accordance with this subrule; or

(4) Take other actions authorized by this rule.

ITEM 67. Amend rule 567—64.9(455B) as follows:

567—64.9(455B) Monitoring, record keeping and reporting by operation permit holders. Operation permit holders are subject to any applicable requirements and provisions specified in ~~567—Chapter 63~~ the operation permit issued by the department.

ITEM 68. Amend rule 567—64.10(455B) as follows:

567—64.10(455B) Silvicultural activities. The following is adopted by reference: 40 CFR 122.27 as ~~promulgated April 1, 1983 (48 FR 14153).~~

ITEM 69. Amend subrule 64.13(1) as follows:

64.13(1) The following is adopted by reference: 40 CFR 122.26 as ~~promulgated November 16, 1990 (55 FR 47990), and amended March 21, 1991 (56 FR 12098), April 2, 1992 (57 FR 11394), and December 8, 1999 (64 FR 68838).~~

ITEM 70. Amend rule 567—64.14(455B) as follows:

567—64.14(455B) Transfer of title or owner address change. If title to any disposal system or part thereof for which a permit has been issued under 64.2(455B), 64.3(455B) or 64.6(455B) is transferred, the new owners shall be subject to all terms and conditions of said permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notifying the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers or address changes must be reported to the department by mail.

ITEM 71. Amend subparagraph **64.16(3)“a”(5)** as follows:

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5. Fees as established in ~~2006 Iowa Acts, House File 2540, section 25, Iowa Code section 455B.197~~ are to be submitted by August 30 of every year unless a multiyear fee payment was received in an earlier year. New facilities seeking General Permit No. 5 coverage ~~in any month but August~~ shall submit fees with the Notice of Intent for coverage. ~~Coverage provided by the five year, four year, or three year permit fees expires no later than the expiration date of the general permit.~~ Maximum coverage is five years, four years, ~~and three years,~~ and one year, respectively. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

ITEM 72. Amend subparagraphs **64.16(3)“b”(3)** to **(6)** as follows:

(3) For operation and non-storm water NPDES permits not subject to subparagraphs (1) and (2), a single application fee of \$85 as established in ~~2006 Iowa Acts, House File 2540, section 25, Iowa Code section 455B.197~~ is due at the time of application. The application fee is to be submitted with the application ~~form (Form 30 for municipal and semipublic facilities; Form 1, 2, 2F, 3, or 4 for industrial facilities)~~ forms (as required by 567—Chapter 60) at the time of a new application, renewal application, or amendment application. Before an approved amendment request submitted by a facility holding a non-storm water NPDES permit can be processed by the department, the application fee must be submitted. Application fees will not be charged to facilities holding non-storm water NPDES permits when an amendment request is ~~submitted by DNR staff, or initiated by the director,~~ when the requested amendment is to will correct an error in the permit, or when there is a transfer of title or change in the address of the owner as noted in 64.14(455B).

(4) For every major and minor municipal facility, every semipublic facility, every major and minor industrial facility, every facility that holds an operation permit (no wastewater discharge into surface waters), and every open feedlot animal feeding operation required to hold a non-storm water NPDES permit, an annual fee as established in ~~2006 Iowa Acts, House File 2540, section 25, Iowa Code section 455B.197~~ is due by August 30 of each year.

(5) For every municipal water treatment facility with a non-storm water NPDES permit, no fee is

charged (as established in ~~2006 Iowa Acts, House File 2540, section 25~~ Iowa Code section 455B.197).

(6) For a new facility, an annual fee as established in ~~2006 Iowa Acts, House File 2540, section 25~~, Iowa Code section 455B.197 is due 30 days after the new permit is issued.

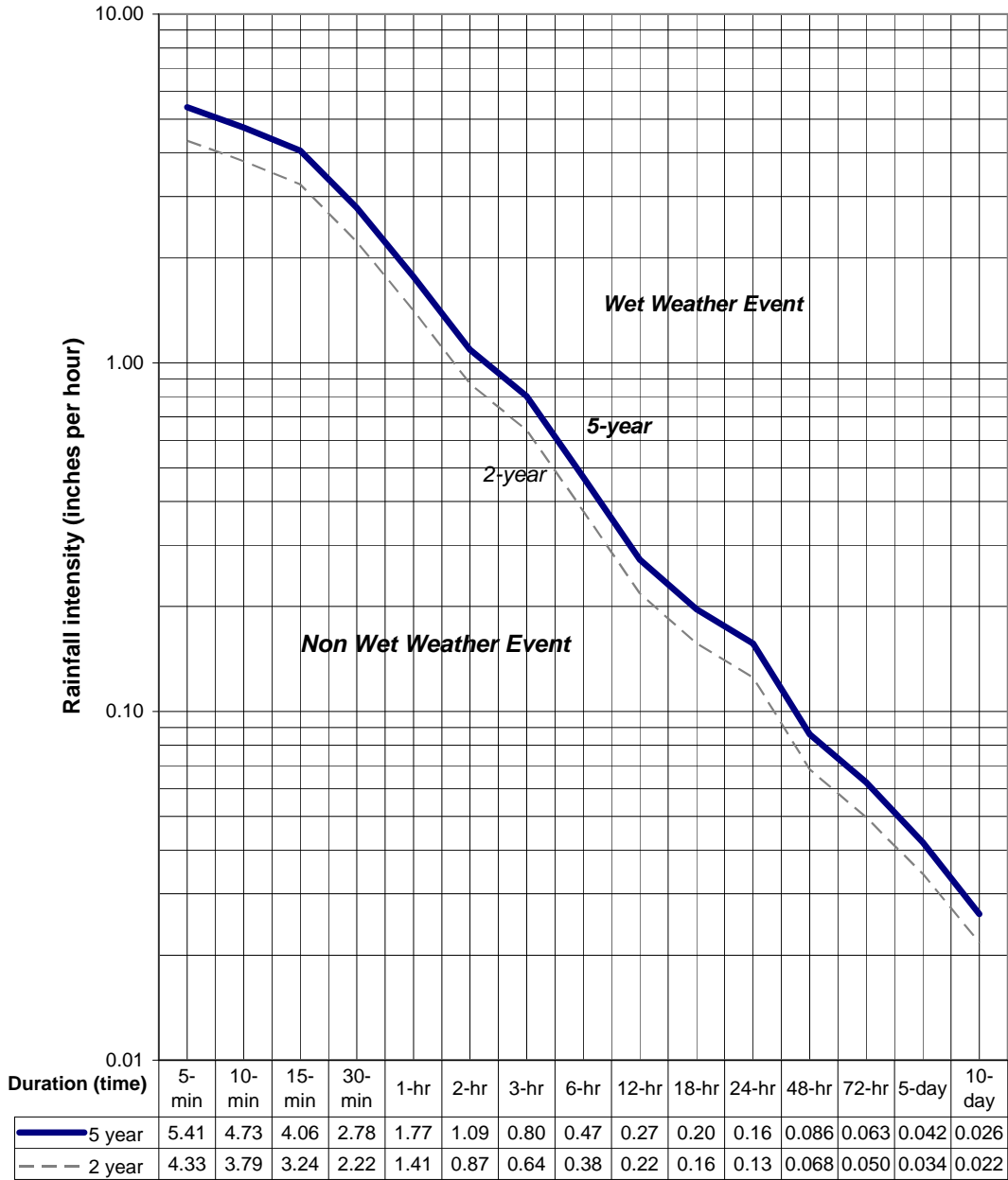
ITEM 73. Amend paragraph **64.16(3)“c”** as follows:

c. Wastewater construction permit fees. A single construction permit fee as established in ~~2006 Iowa Acts, House File 2540, section 25~~, Iowa Code section 455B.197 is due at the time of construction permit application submission.

ITEM 74. Rescind Appendix A in ~~567—Chapter 64~~ and adopt the following new Appendix A in lieu thereof:

APPENDIX A **Rainfall Intensity - Duration - Frequency Curve** **(5 and 2 year Return Intervals)**

Data Source: *Rainfall Frequency Atlas of the Midwest*, Illinois State Water Survey, 1992.



Rainfall intensity data points (inches per hour)

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/11/09.